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June 1, 2010

Ms. Thomasenia Duncan, General Counsel Federal Election Commission Office of the General Counsel 999 E Street, NW Washington, DC 20463

MUR# 6306

RE: Complaint against Sharron Angle and Friends of Sharon Angle, for accepting an illegal corporate in-kind contribution through use of a corporate airplane for campaign purposes.

Complainant Sue Lowden for US Senate Senate, Charles R. Spies, Counsel, hereby submits this Complaint, pursuant to 2 U.S.C. § 427(g) and 11 CFR § 111.4, against Respondents Sharon Angle and Friends of Sharon Angle (FEC ID # C00460758).

I. Facts

According to a recent article published by the Las Vegas Review-Journal, on March 27 and 28, 2010 Mrs. Angle flew between campaign stops on an six-seat airplane owned by DLR Ventures, LLC, a Nevada-based limited liability corporation. See Attachment A ["Questions Surround Angle's Trip Aboard Supporter's Plane," Las Vegas Review-Journal, May 28, 2010] The charter rate for a comparable plane of comparable size on the same itinerary was estimated at \$7,000. Id. Angle acknowledged that she did not reimburse the corporation, DLR Ventures, LLC, for the charter rate, but instead paid only \$67.54 for a partial share of the cost for "fuel and

FEC Complaint Against Sharon Angle June 1, 2010 Page 2

parking." *Id.* In addition, no payment at all to the corporation that owns the airplane, DLR Ventures, LLC, is reflected on Mrs. Angle's FEC Report for the relevant time period of the flights reported on in the newspaper. *See* Friends of Sharon Angle 12-Day Pre-Primary Report, dated May 25, 2010.

II. Legal Analysis

If a campaign uses an aircraft that is not operated for commercial service, including a corporate aircraft, it must comply with Title VI, section 601 of the Honest Leadership and Onen Government Act of 2007 (HLOGA)(Pub. L. No. 110-81, 121 Stat. 735). This law, which took effect immediately after it was signed into law in 2007, significantly restricts air travel by federal candidates and officeholders. Under HLOGA, a candidate for US Senate and her campaign may not use campaign funds for air travel unless the flight is on a commercial air carrier and subject to air carrier safety rules, or the pro rata share of the fair market value of the flight is reimbursed. This rule is explained in plain language in the Federal Election Commission Campaign Guide -Congressional Canalidates and Committees, Chapter 10, Sec. 4, April 2008. Further clarification was provided on December 7, 2009, when the Federal Illection Commission ("FEC" or "Commission") promulgated new and revised rules implementing the provision of HLOGA governing non-commercial campaign travel on aircraft. See Attachment B [Final Rules Regarding Use of Campaign Funds for Non-Commercial Travel, 74 FR 63951, December 7. 2009] The effective date for those regulations was January 6, 2010, and these new regulations make clear that "non-commercial air travel" means, "any travel aboard any aircraft that is not (1) operated by an air carrier or commercial operator certified by the Federal Aviation Administration and (2) the flight is required to be conducted under air carrier safety rules..." 11

FEC Complaint Against Sharon Angle June 1, 2010 Page 3

CFR Sec. 100.93(a)(3)(v). The new regulations specify that reimbursement for non-commercial air travel must be made to the service provider by the relevant committee within a "commercially reasonable time frame," which is defined to mean within seven (7) days from the date of the flight. If such reimbursement does not take place within seven days, then the campaign has received an in-kind contribution for the fair market value of the flight. Specifically, the Act definer a "contribution" to include "any gift, subscription, lean, advance, or deposit of meany or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. 431(8)(A)(i); see also 11 CFR 100.52(a). The phrase "anything of value" encompasses "the provision of any goods or services without charge or at a charge that is less than the normal and usual charge for such goods or services." 11 CFR 100.52(d)(1). When goods or services are provided at less than the usual and normal charge, "the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the political committee." Id.

As a result, a candidate that does not make a timely reimbursement for a flight has received an in-kind contribution from the provider of such flight, in this case DLR Ventures, LLC. Such an in-kind contribution from a corporation such as DLR Ventures, LLC is legally prohibited. See 2 U.S.C. 441b, 441c, and 441e; 11 CFR 110.20, 114.2(b), and 115.2.

One of the most basic rules of legal compliance for federal elections in the United States of America is that corporate contributions, whether direct or in-direct, me prohibited. This prohibition is almost a century old, and is of course codified in the Federal Election Campaign Act of 1971, as amended (the "Act"). The Act prohibits corporations from making contributions

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and expenditures in connection with any federal election. 2 U.S.C. § 441b(a). The Act defines contribution or expenditure to include "anything of value" to any candidate. 2 U.S.C. § 441b(b)(2). The value of a charter airplane flight is certainly something "of value" under the Act, and consequently the charter rate of at least seven thousand dollars (\$7,000) for a "comparable phase of comparable size" to the one used by Mrs. Angle and her comparing must be treated - and reported! - as an in-kind contribution to Friends of Sheron Angle. It is not surprising, however, that Mrs. Angle did not report this contribution, as doing so would expose a clear violation of the prohibition against corporate contributions found at 2 U.S.C. § 441b(a).

These clear violations of federal law were apparently not committed by a low-level staff member of Mrs. Angle's Senate campaign, but instead by Mrs. Angle herself, who was personally flying on the airplane in question. Under the Act, no person, including a political committee and/or a candidate, may knowingly accept or receive a corporate contribution. 2 U.S.C. § 44 Pb(a). Sharon Angle is a frequent candidate for various offices, who most recently in 2006 ran a failed carapaign for United States Congress against now-Congressman Dean Heller. Consequently, Mrs. Angle is presumed to know and understand the clear prohibition in Federal law against using amposate funds to subsistine a pampaign for Federal office. It therefore would strain credibility for anyone to assert that Mrs. Angle did not knowingly facilitate and accept a corporate contribution, in violation of 2 U.S.C. § 441b(a). Alternatively, however, even if the in-kind contribution was from a permissible source such as an individual, that contribution would

Under the Act, each report filed by a political committee must disclose contributions to, and disbursements by, the committee. 2 U.S.C. § 434(b).

FEC Complaint Against Sharon Angle June 1, 2010 Page 5

still be subject to the contribution limits of the Act and Commission regulations. See 2 U.S.C. 441a-441k; 11 CFR parts 110, 114, and 115.

III. Conclusion

We hereby respectfully request that the Commission investigate the crimes outlined above, mandate the full disclosure of any corporate in-kind contributions by DLR Ventutus, LLC to Mrs. Angle and her campaign committee, and penalize Mrs. Angle and her committee accordingly for their violations of clear Statutes and Regulations prohibiting the acceptance of an un-reimbursed non-commercial flight.

Counsel

Sue Lowden for US Senate

District of Columbia

Signed and sworn to (or affirmed) before me on June 1, 2010

By:

Charlie R. Spies

Name(s) of Person(s)

Notary Public: <u>Jasa Kim Elechant</u>

My Commission Expires: <u>May 14</u> 2012

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ATTACHMENT A

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May. 28, 2010 Copyright C Las Vegas Review-Journal

Ouestions surround Angle's trip aboard supporter's plane

By LAURA MYERS LAS VEGAS REVIEW-JOURNAL

When Sharron Angle hitched a ride on a supporter's plane to rally Tea Party troops at the "Showdown in Searchlight" in Harry Reid's hometown, the rising Republican candidate hoping to replace the U.S. senator might have violated campaign finance rules.

Angle paid \$67.54 to reimburse the owner and pilot for fuel and parking for several legs of the trip that she and a couple shared on the six-yeat, single-engine Cherokea Piper on March 27 and 28, according to records her campaign released to the Las Vegas Review-Journal. Passengers picking up equal shares of the transport tab is in line with Federal Aviation Administration mules.

But after quentions were raised about whether Angle at a candidate should have paid a charter raise estimated at \$7,000 or more, her campaign said Friday it sought a legal opinion and decided to pay a higher charter plane fare to ensure full compliance with the Federal Election Commission.

The campaign declined to release the amount of the payment.

"Sharron pays for her own trips and so there was no free ride." said Jerry Stacy, spokesman for Angle's campaign. "And this is not a corporate jet. This is a private plane being flown by a private person. We thought we were dring the right thing and fallowing all the rules."

Confusion and mishandling of campaign finance has tripped up several candidates, especially Angle and Sue Lowden, now running neck and neck for the GOP nomination in the June 8 primary. Danny Tarkanian also is a top GOP contender to face the Damocratic incumbent Reid in November.

Lowden has her bus problem with the Democratic Party filing a complaint with the FEC, accusing her of accepting an iflegal donation of a luxury RV that sports her photo and acts as a campaign biliboard as she travels the state. Lowellen says the bus is leased and in compilance with the law.

Now Angle has her plane problem, which the Lowden campaign seized on as the hotiy contested GOP prisonry plays out its last days hunding into the June 8 final wate.

"You can't pristray yourself as a candidate in a globup track when you've taking private planes across the state," Lowden campaign manager Robert Ulthoven said, referring to Angle driving herself around to events in her own pickup, which is featured on her campaign website.

Ulthoven said the private plane travel is the latest example of Angle's campaign not properly disclosing contributions, payments and debts -- problems the Angle campaign has attributed to committee noftwarm glitches and either apteuriting ornius in its remorts theiring back to late 2009.

"Shower Armie trac over a year bits in filing a legally required financial disclusion fann, and sim still hasn't accounted for the nearly \$100,000 of missing debt from previous FEC filings," Ulthoven said. "It's hard to read her record when she tries to keep it closed."

Stacy dismissed the criticism, saying Angle opponents are playing a "gotcha game."

"This should be about how to defeat Harry Reid, and it kind of sickens me that people are trying to bring down this campaign," Stacy said after battling a series of national stories trying to link Angle to Scientology and other controversial ideas to make the conservative appear unelectable.

In Angle's case, the flights came during a busy time for the former Reno assemblywoman, whose campaign was heating up as she wooed the Tea Party movement for support, including at the anti-Rend gathering in Searchlight attended by 8,000 to 10,000 people.

Ed Nighting, a Room supporter and private pilot, affered to fly Angle to Starchlight and several events before and after the gathering, which came two weeks before she won the Tea Party Express endorsement. His plane is registered under DLR Ventures LLC, a limited liability corporation he owns.

An Incline Village couple, Steve and Denise Ause, jumped on board, too, after meeting Rathje through GOP contacts the day before the Searchlight event. They, too, paid their share, \$224.58 for the whole trip, according to records released by the Angle campaign.

The Piper left the Rema-Stead Airport on March 26 with the Auge excels and another man on board. They met Andie in Hendsteen that evening as she did a radio interview with Rober Hedgecock.

On March 27, Angle, a sampaign werker and the saugle flow tegsther from Hendesses to Builbead City, Ariz., then to Searchlight for the main event, then returned to Henderson. Angle's campaign worker chipped in \$20.40 to cover his share of that leg of the trip, the records show.

On March 28, Angle and the Ause couple flew home, from Henderson to Reno-Stead.

"We had a wonderful time, and Ed kept a whole log and kept track of what everybody owed." Denise Ause said in an interview. "He was keeping everything right down to the penny."

Steve Ause said the couple, who are active in Republican politics, were early backers of Lowden because they saw her as the best GOP bet to beat Raid in the fall. But once they pot to know Angle, mostly through the Searchlight trip, they switched allegiones to the Tea Party familie.

"For a while we were going with Sue because she was the front-runner and it was fust all about how do we get rid of Harry Reid," Steve Ause said. "But when we got to know Sharron and her campaign took off, we felt she was really the better candidate, and we think site can win."

The Auses also are supporting Gov. Jim Gibbons for re-election, although the Republican has had a series of pomunnel paciplems, lectuding a diverse, that leave made it unlikaly he will win the primary.

Stacy said Angle had complied with FAA rules that allow only pay-rated selmbuscament of plane operating costs for private pilots when they carry passengers. But another lawyer who deals in FEC regulations advised the Angle campaign that federal finance rules supersede the FAA in this case, allowing the private pilot to accept charter fees without risking the loss of his license.

"So the bottom line is this: The campaign prefers to take the safe-than-sorry route, and the treasurer has been instructed to make an additional immediate payment to the pilot that residets the going rates for chartered flights and fee an appeted nameth with the FEC," Surry said.

The Argle compaign also plans to seek an advisory opinion from the FEC to clarify any parameter

conflicts between the FEC and FAA rules about private flights, Stacy said.

"The plane is a 44-year-old, single-engine Cherokee Piper, and the chartered rates versus pro-rata rates are not expected to show much of a noticeable difference someorning distrurgements paid wit for the usage of a plane this old," said Stagy, who would not give an expet reimburgement figure.

In 2007, the law was changed to prevent federal candidates from accepting free rides on corporate jets, said Craig Holman, a campaign finance expert with Public Citizen, a watchdog group. Candidates must fly commercial or must charter planes at the market rate, he said.

"They have to pay their pro-rated share of the charter flight," Holman said. "The whole spirit of the law is to get candidates off corporate jets. We're just starting to see violations beginning to happen."

Contest reporter Laura Myers at Imyers@ reviewjournal.com or 702-387-2919.

Find this article at:

http://www.hrj.com/news/questions-surround-angle-s-trip-aboard-supporter-s-plans-95165209.html

Check the box to include the list of links referenced in the article.

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Rules and Regulations

Federal Register

Val. 74, No. 233

Monday, December 7, 2009

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and castified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Cede of Paderal Regulations is seld by the supermission of Documents. Prices of new books are listed in the first FEDERAL RESHITIBITE issue of each sensit.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 113, 9004, 9034 [Notice 2009-27]

Campaige Travel

AGENCY: Federal Election Commission. ACTION: Final rules.

SUMMARY: The Federal Election Consulation is promulgating new and revised rules implementing the provision of the Honest Leadership and Open Government Asi governing noncommercial campaign travel on sircraft.
These changes restrict, and in some situations problem, Federal candidates and certain political committees from expending charpages funds for same communical sistemals Ton miss again to sil Pedenti condidates, inclusing publicly funded postdeatisi condida and other individuals traveling sa behalf of candidates, political party committees, and other political committees, where the fravel is in cumpetion with Pollural elections. DATES: The effective date for the emendepents to 11 CFR parts 110, 113 and 9064 is James 5, 2010. Further action on assembly to 11 SPR part 9000, instituting the publication of a document in the Polacel Suplainr announcing an effective case, will be taken after these regulations have been before Congress for 30 legislative days pursual to 25 U.S.C. 9006(c). FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rollietska, Assurtant General wol, Mis. Jimbua S. Blames, Asia or Ma. Jonesen S. Waldstreinken, Attenning, 986 E Street, NAS., Washington, DC 20468, (2012) 804-1650 or (200) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is promulgiting several changes to its rules in order to initilement section 601 of Public Lew 110-81, 121 Stat. 735, the "Honest

Leadership and Open Government Act of 2007" ("HLOGA"). This provision of HLOGA busines affemilys up exectment on September 14, 2001. HLOGA emended the Federal Flection Campaign Act of 1271, as amended (2 U.S.C. 431 et seq.) ("the Act") by restricting, and in some case prohibiting, the expenditure of campaign funds by candidates for Pederal office for non-communcial wavel aboard alounft. See 2 U.S.C. 4Ma(c).
The Gammingian is implementing this

rovision of HLDGA by aiding ne \$ 113.5 to 11 CFR Part 113, which governs the expenditure of campaign funds by candidates for Federal office and their authorized political committees. In addition, the Commission is prescribating revisions to 11 CFR 190.98, which sateblishes an was continued in the distribution of "contribution" for a que-essential the exception of the action of the contribution of the action of the complete of the complete of the complete of the complete of the conditions of the conditions and political committees reimburse the service providers at specified rates. The revisions to 11 CFR 100.93 apply to campaign truvel by, or on behalf of, candidates for Federal effite or leadership PACs of Mount condic As disquesti below, too rules learn in place the required reimbusement rate structure impresed under the Commission's 2003 rules for travel by persons on behalf of other political committees, such as the staff of a political party committee, a noncommitted pulifical committee, er a leedership P/IC of a Zeni Presidential conditions. The resultines to 11 CFR 100, 10 east one incomposited by reference fight the Commission's rules governing manual by publicly familial presidential conditions. The charges in these final rules, however, do not the best final rules, however, do not substantively airer the Commission's treatment of travel by means of transportation other than aircraft, er of

Envel discord exemperial airliness or charter flights: The Notice of Proposed Rulemaking ("NPRM") on which these final rules as seed was published in the Federal ter on October 23, 2007. 72 FR E9953 (Oct. 23, 2007). The comment period closed on November 13, 2507. The Commission received eight comments from eleven commenters.1

The comments are available at http:// www.fec.gov/law/ hav_mdemakirya shindii i Final no commenter requested the opportunity to testify, the Commission did not hold a hearing on this

rulemaking. Under the Administrative Procedure Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, # 185.C. 801(agt), agencies must submit final males to the Speaker of the House of Rupmanniations and the President of the Sweats, and publish them in the Federal Register at ast thirty calendar days before they take effect. In addition, 26 U.S.C. 9009(c) requires that my rules or regulations prescribed by the Commission to carry out the previsions of the Presidential Election Chaptign Fund Act be trustenisted to the Son of the House of Representations and the Practicent of the Genete thirty legislation thus before they are Shally promulgated. The final miss that fallers rere transmittad to Congress on November 24, 2009.

Explanation and Justification

L Backgrousti

A. Statutory and Regulatory Framework .

The Act defines a "contribution" to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing say elexion for Federal office." 2 U.S.C. #\$1(8)(A)(i); see also 11 (TR 100.52(a). The phrase "anything it wiles" (micrompassus "the provision of stry gards or services without them,s or it is charge that is less than the married and usual charge for such genuls or services." 11 (FR 100.53(d)(1), When oods or services are gnovided at less than the usual and normal charge, "the savent of the in-kind contribution is the difference between the namel and minual charge for the goods or sarvites at the time of the confeibation and the emount charged the political committee."

As a result, candidates who mavel aboard a commercial stringer or other conveyance for which a fee is normally charged must pay the usual and normal charge for that service to avoid recepting an in-kind contribution from the purson

^{*}These contents included a written summent and Briding conflit interes its regulations and the from the fitting Revenue Stating and the Commission's progressionies.

providing the travel service. Such inkind contributions wanted be prohibited if provided by certain entities, including corporations, labor organizations, Federal contractors, and foreign nationals, Say 2 U.S.C. 44Th. 44Tc, and 441e; 11 CFR 910.20, 114.2(b), and 118.2. If the in-mid contributions are from paradisable marcus, tiny nevertibles visual lie subject to the containation limits of the Ast and Commission regulations. See 2 U.S.C. 4412-442k; 11 CFR parts 110, 114, and

1. Farmulgation of 11 CFR 100:03 in 2092—Payment for Non-Commercial

The usual and same! charge for travel aboard a commercial aircrift is the publicly available price for a ticket, and the usual and mental charge for a chartered aincreft is the publicly available charter or lesse rate. The usual and normal charge for travel aboard a non-commercial flight, however, may not be se appeared. For example, there is generally not a ticket price for a seat absure a new-commercial absure that may be quested primarily for the terrel of the swarz and invited guests. Because candidates for Federal office traveled on these privately operated aircraff, the Commission's regulations provided specific gelsiance about the rate of reliabusement that continues and others little to pay to would receiving an excession or a positivitied six kind contribution for transi thems such

On December 15, 2003, the Commission promulgated final role adding 11 CFR 100.93. See Final Rules and Explanation and Justification for Travel on Benulf of Candidans and Political Committees, 68 FR 89583 (Dec. 15. 2003) ("2003 travel rules" or "2003 EUT'). Tille 2000 kerrel ruise ettablished em emporations from the delimition of "committees" for payment at qualified rates for nem-nemmercial trapid in connection with a Federal alection. Under the strip travel rules, the payment required for non-commercial eir travël varied among the first-class, couch, or dissing rate, depending on whether the travel seguired between cities respect by requisity adsoluted communication thilites serving and white that examine will exact this examination of a first-onor cogale miles fine in CFR 145-63(aligned) कर्त हों (2004),

2. Rections to 2000 to 21 (ER 1900.7 and 9074.7—Teach by Sectionical and Vista Benchient fal Cambidator Assembling Public France

Chadidinis in the presidential primary elections may tendify to receive

partial public funding in the form of metching permants from the Federal government. Additionally, presidential general election candidates may qualify to receive outright grams of public funds. In both cases, the presidential candidates must agree, denoug other things, to use the public funds they receive easily for "qualified company expension and not to extend qualified expenditure limbs. 7 U.S.C. 441a(b)(1)(A) and (B) 28 U.S.C. 9002(b)

and (c), and 9033(b).

As part of the 2003 travel rules, the Commission promulgated separate regulations at 11 CFR \$001.7(b)(5)(i). (v), and (b)(8), and 9001.7(b)(1)(ii), (1), and (b)(8), is thing from the expression reimbusement a most that publicly funded conditions must use for campaign-related turvel on mucommercial transportation. White 11 CPR 100-03 treats the malespayment for travel as an in-kind contribution, 11 CIFR 9004.7 and 9024.7 address the extent to which payments for campaign-related travel constitute "qualified cumpation expenses." The 1002 weed. recordisoping montrements for presidential and vice-pastiontial endidates accepting public funds to conform them to the new rates in 11 CFR 100.93.

II. Revisions to 2 U.S.C. 432a—Uco of Compaign France

HI.OMA amended the sist to probibit Mouse carefidelys, their authorized committees, and their leadership PACs 2 from making any expenditure a for nonenumercial travel on sircraft, with an exception for travel on garanteentoperated aircraft and singuit sweed as lessed by a caudidate or an immediate family member of the candidate, See 2 U.S.C. 439a(c)(E) still (3). HILINGA also specified now teimburgement rates that presidential, the presidental, and Sonate emplificate input pay for mancommunial suspense towns in older See 2 U.S.C. 438a(c)(4). The reimbursement inter for these types of travel differ from those conseined in the Commission's 2003 travel rules, which addressed nun-communial transi en aircraft by all political committees, including political party committees. separate segregated made. someonnected political committees, and other political committees. MLOGA did not, however, affect sumplifies travel on summercial flying, which all sumplifies must still reinforme at the "users and normal charge." See 11 CFR 100.55(a) and (d), and 100.23(a)(2).

III. Revisions in in CFR 199.93—Tannel ly Moralt on Title Mone of Transportation

Tim Commission is amending 11 CFR 100,93 to implement HLOGA's provisions requiring candidates and destain political committees to pay for non-commencial sir traval at a specified rate to avoid the receipt of an expansive or a prohibited in-kind contribution.

The Commission is otherwise retaining 11 CFR 100.93 intect, except s identified below. The explanations a the purpose and provisions of 11 CER 100.93 were set out in the 1903 ! and continue to simily unless adding to the following discussion in the NPRM, the Commission sought omments on the overall structure of 11 CPR 100.93. Nane of the commenters called for a change in the structure or general function of the section.

A. 100.93(a)—Scope and Difficitions

The Commission is charging the scope and definitions in 11 @ 100.93(a) as mated below. Elect, for internal consistency, the Commission is replacing all references to "airplance" in 11 CFR 100.93 with the term "aircraft." HLOGA uses the term "eigenft," which the Federal Aviation Authority (FAA) defines as "a device that is used or interested to be used for light in the air."

^{*}The INFIES proposed a definition of "Sufficients
IMC" to implificant tention (Strip) cities Octo, a
IMC. 444(MM)D. NYRM at 50064-86, 5004-76
Commission subsequently adopted a definition of
"inclusion subsequently adopted a definition of
"inclusion PAC" at 21 CFR 100.8(a)(b) or part of
a separatula intentition parametricular reportant "leadership FPsG" at 12 term autoropy, and an apparatural intentiting general spiritual in paratural principal and apparatural intention in PACs or interprets and majorante. See Esportin Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 FR 7263, 7266 (Feb. 17, 2006). The definition become effective on March 19, 2000. Accordingly, the definition of "Inndeedship PAC" is not independ in these final rules.

An "expendition" includes my payment By any person for the purpose of inflaencing any election for Political office." 2 U.S.C. 455(U/A)().

[&]quot;The intent of motion cell of M solutions on a significant of motions of the second substitution of air travel provided by respectitions and others to conditions on them to conditions on them to consultant on the potential for seconditions on them to consultant or the physicance thereof. Son. a.g., 133 (Cong. Rec. 523) (daily ed. Jan. 1, 2007) tetatement of Son. Stans) ("It vigital be one thing if Congressmen and Saustore paid the full rate for these flights, but we dish"), 153 Cong. Rec. Staff (daily ed. Jan. 0, 2007) tetatement of Son. Prinspold! ("Any legisurion on simposate jets must include company trips as well as efficiel travel because one thing is for certain—the lobbyist for the company that particles the jet intelligity to be on the fulfic, whellies it is taking you to one a factory back hitme or a faultitior for your company.", 138 Cong. Mic. State (daily ed. Jan. 10, 2007) (patternant of Son. kis bitmen) ("When a Member of Congress or a subdished for Redecal office uses a private plane, the other rules, as well as the Product Hection Commission rules, require payment to the owner of the plane equivalent to a limit-shap commercial ticket " "The Raid armodulent would difficultion that threshols " ""! no may present aspection Committees rules, re-payment to the owner of the plane equivalent first-chap commercial ticket * * * The Rold grandsheat would eliminate that Rophole * add 153 Cong. The, Mitteet (dully ed. Aug. 2, (statement of thin Sea, Winna). (dull) ed. Aug. 2, 2007)

14 CFR 1.1. The term "eircraft" includes helicasters, which the Commission's 2000 gravel rules had gramped with buses and conveyances ether than airplanes. See 11 CFR 100.93(a)(3)(4) (2004) (definition of "service provider" former on "person who makes the eveliphis''), 11 CFR 100.93(m) (2004) ("inped by similane"), and 11 CPR 100.25(d) ("other mappe of transposizion" includes "any other means of transpostation" and specifically lists helicopters). The primary impact of these changes is that travel aboard a helicopter new would be reighbursoul at the sate respected in 11 CFR 100.83(c) (miswallt), suffice than (d) (other mavejenicus), which was the erro undig the 2000 imme sulm, as discussed

1. 11 (原収 160,95%)(1) end (2)—Scope of 11 CMR EMB.93

The rule at 11 CFR 100.93 is intended to establish reimbureament rains for "non-commercial travel" in this absence of a usual and normal charge. 11 CFR 100. wi(e)(1). Without a would seed income charge is readily econtaineble, such as a specified fac by rease, milrage, or des and time of use, the travel is generally considered "commercial travel" and the usual and normal charge must be paid to avoid receiving an in-kind contribution. See 11 CFR 100.23(a)(8)

and 100.52(d)(1),
The Commission's 2005 travel related integrational frames communications and the communications are communicated to the communication of t non-communical sit treval besed on the continuation puters of the Mildest Aviation Administration (PAA). Specifically, the Commission's 2003 trevel rules applied to all simplenes not licensed by the FAA to operate for ion or hire under 14 CM

parts 121, lus, as 1800. See 11 CER
100.000(a)(1)(citie).
History accomplishes the cases result
without implicit refuseure to specific
FAA regulatory provisions in order to
simplify and slight the Commission's regulations with HLOGA, the Commission is replacing its reliance on specific PAA regulatory provisions with the new terms "commercial travel" and "non-commercial travel," which are definition new 11 CSR 168.05(a)(3)(7v) and (v) and suplemed below. Node of mounts typosed this change.

2. 11 CFR 165.53(a)[5][1)—Diffinition of "Carepuign Traveler"

The Commission alto is making a change to the definition of "conspaign traveler" in 11 CFR 180.89(s)(3) to clarife that the form manage only persons towaling on helitif of a candidate, but also candidates who

travel on behalf of their own campaigns. in the MPEM, the Commission proposed emending the definition of "campaign traveler" to include "[a]ny candidate for Federal office," as well as "eny individual traveling in connection willi an election for Pideral office on behalf of a comittie to political ourselities. and "(ajmy manaism: of the serven modin traveling with a constitute." Jim proposed 11 CFE 108.92[a](3)(1). The Commission received one assument in support of the proposed change, and no

comments in opposition.

The Commission is adopting the proposed change along with one further revision to classicy that a candidate is a "campaign travels?" only when "traveltag (a summetime with an election for Fesheral office." The fee "campaign turnler" in reviewd 11 CM 100.93 dags set include Members of Congress when they engage in efficial travel, ar candidates when they engage in personal traval or any other travel that is not in connection who an election for Federal calice. Security personnel, thehaling grammatic ersoniud, introduce perintumer ravided training perintumer constant, shall be fore amei (rịch m thu Secret Shurius), ii compages trevelers when traveling in connection with a Fadinal election on behalf of a condidate or a political committee. However, governmentprovided security pateranel are not included when determining a "comparable sizerall of sufficient size to emmerciate all senapeign travelers" moder 51 GFR 180.93(191.)(1), as discusard index.

3. 11 CFR 165.53(a)(3)(iv) and (v)— Definitions of "Commercial Trevel" and "Non-Change and Taxvel"

The difficient of "commercial transl" in new 12 fail, 200.83(43)(iv)(A) corresponds to the new statutory language of HLOGA: Travel aboard on aircraft "operated by an air confer or enumercial operator terrificated by the Federal Aviation Asimiplemation and the flight is required to be enseincted under six carrier solety rules, or, in the case of travel which is absent, by an six cerrier of commercial operator certificated by an appropriate foreign civil eviation authority and the flight is required to be constituted under all cerrier salbty sules." 5 2 U.S.C.

439a(c)(1) and (2). The definition of "non-commercial trevel" in 11 CPA 100.93(a)(3)(v) encompasses all air travel not included in the definition of "commercial trassl." These definitions ere unchanged from the NPRM.

One comment addition chilipas, suppriting bala. The Cituanission did not resider any comments frontifying a different halmen the waterment of simult encompassed by the new term "noncommercial traval" and the aircraft included in former 11 CFR 100.93(c) ("an airplane not licensed by the Pederal Aviation Administration to operate for compensation or like under 14 CFR parts 151, 1/h), or 155"). The Commission is delibera

"commercial travel" with respect to conveyances other than singuist as "other means of transportation operated for commercial passanger service." 11 CFR 100.93(a)(3)(iv)(B). This demnition is unchanged from the proposed rule. The Commission did not receive any

comments on the proposed definition.
The Comments are windled the comments are windled the definitions of "cuttimental trange" and "non-commercial travel" should medifically address the treatment of discosit operated under complex multiple ownership or lessing arrangements, such as arrangements in which some of the owners of in aircraft are commercial operators vertificated by the FAA but officers are not. The Commission like dout ded not to address with issue in the fittel mas's definitions because the Commission expansis that the structure of the final west will elizainate any potential for confusion arising from complex ownership arrangements. The final rule focuses on the operator of the Michael at the Mine of a given flight and whether that posticular flight in stigast to the applicable FAA safety standards, miliar than the owners, service providers, or tion uses of the simual as in factor 11 CFR 100.93. Multiple community arrangements for sixualt owned or lessed by a condidate or a candidate's immandiate family member through a multiple-ownership arrangement are addmssed in 11 CFR 100.93(g), discussed bislow.

4. 11 EFR 100.93(a)(3)(vi)—Defizition of "Commarable Aircraft

HLOGA Section 801(a) requires reimbursement of fair market value for Fights described within that section based on the quarter rate for a "comparable piena of comparable size"

[&]quot;Both "air complet" and "ottownship of operator" are terms of act defined in PAA regulations. See 14 CPE 1.1. An "air consist" is "a peacen who not justained directly by blues out that quantitative of comparated to consistent of "a place who, for comparately or late, regages in his contage, for comparately terms, and the context of particular than as an air consistent or infilling our complete or fartiling of consist or under part 373." The Federal Aviation Administration of ("FAA") six reserter suffer rules are contained in 14 CFR party cerrier safety rules are contained in 14 CPR parts

^{122 (}Jurge sixplenes) and 135 (smaller sixplenes and other sixpath).

to the one actually flown. 2 U.S.C. 439afet(1)[R]. The Commission interprets the term "comparable plane of comparable size" to mean an aircraft with similar physical dimensions to the singuit solutily flown and that is able to carry a similar number of passengers. The Commission recognizes, however, that times is an "enequable plane" for a helicoptus casi is, instead, constraing the sixuits to require a competitions of similar types of sizeroit (i.e., compete a helicopter to a helicopter). Accordingly, the Commission has defined the term 'comparable aircraft" in new 11 CFR 100.93(4)(3)(vi) as "an aircraft of similar make and model as the aircraft that actually makes the trip, with similes ementithy as that size it." 30, 20w 11

CFR 100.92(h)(3)(vi).
This interpretation is consistent with the Commission's interpresation of a similar term, "comparable commercial sirplane," In its 2008 travel rules, as explained in the 2003 E&J. See 2003 Ea), 58 Px at 99855-59. The definition is also constituent with a Wisory oplidons imued price to the 2008 travel-rules. For example, in Advisory Opinius 1984–48 (Hant), when applying the than-apprative term of a "comparable commercial conveyence" to an simpleme. the Commission interpreted a "comparable" airpiume de being of the "Comparable" airplime as being of the same "type (e.g., jet aircraft versus prop plane) and services officed (e.g., plane with diving service se lessery versus one withhest)" — the plane assembly used. Therefore, if a reading to see a twin sugars reop jet, a single engine prop singest wante not be a comperable off. The new term "comparable aircraft" is intended to require consideration of these distinctions as well as other differences, such a whether a plane is chartered with or without a crew, or with or without fuel.

B. 11 (FR 199.93(b).-Faimbursement of Service Reovitier Required To Avoid the Receipt of a Contabution

Perseisphs (b)(1) and (b)(2) of section 100.522 require a campaiga traveler, or the political committee on whose behalf the travel occurred, to reimbured the provider of the electric or other conveyance at the applicable rate pecified in 11 CFR 100.85(c), (d), (e), or (g) to sould remipt of an manually or prohibited in sind contribution. As explained further below, travel on

non-grammarcial aircraft by candidates for election size the office of Representative in, or Delegan or Resident Commissioner to, the Congress ("Pierse cathildates"), or a person treveling on behalf of any such condidate or any authorized committee or leadership PAC of such candidate, is

generally prohibited (see 11 CFR 100.93(c)(2)) and capant he mangine as an in-kind contribution or be reimbursed from sampaige funds (see 11 CFR 113.5).

The Commission is also renumbering in the Commission is the transforming former puregraph (b)(1)(iii) as paragraph (b)(3) and re-rising it to purelt members of the news music and government-provided approximate parameters in the result of the resu political committee or to pay the agrees provider directly for their pro rate share of the travel. Litimately it is the candidate committees anclusive susponsibility to easure that the service provider is reimbraced for the value of the transportation provided to all pursons impuling with the samular however, aithiring manheum of the media to mimbure the political en of the news committee or to pay the service provider directly is consistent with former 11 CFR 100.93 and takes into account the variety of billing practices that have been used by members of the media to pay for their mavel. See 1948 131, 68 PR at 69588; see also 11 CAR 900 E.S and 9034.6.

Like me mbas of the same media, a Federal or State government provider of sesurity personnel traveling with a candidata, such as the Secret Service and national sacurity staff, also may reimburse the political committee paying for the security personnel's portion of the travel expenses. See, e.g., Advisory Opinion 1892—all (Chatme) Scre) (from paryment) premised on the stringenties of the Scaret Service to movide reimbursementi; and piro 11. CFR 9004.6 and 9084.6. Under the revised rain, the government security provider therefore may pay the service provider directly or reimbures the political committee paying for the travel. In either case, members of the news media or the guranusant provider of security as at not pay mere than their pro rate share of the invol costs so determined in acoustican with 12 CFR

100.93(a); (d), (e), or (a).
There is no indication that Congrue was concerned abrain never media or government-provided security mesonnel paying for their ever tovel when tweeling with Fathird considers or officialistics. Uplike when £ or omcaving a political accumittee provides free or reduced a mail provides to a candidate, the reimbusement by news media or government-breatide security personnel for their own travel does not implicate the goals of the Act in deterring communities or the

appearance of corruption. Moreover, a candidate may have little er no control over whether to be accompanied by government-provided security personnel. Finally, although several commenters urged the Commission to prohibit political committees from paying any pullion of the salk of a Pederal cambinate's flight, mane of the meteca propiding frat balances på the news media er governme t entitles would pose the same dangers of corruption as the appearance of corruption, or that the news media and overnment security providers should be prohibited from paying for their own travel, particularly winth paying the same rate as others as the abuselt.

Although the rule sugment is the NFRM would have prohibited any faces. of payment by the news madia, the mmission sees no compelling reason to deviate from its long making policy of permitting the news media and government-provided security personnel to pay for their *pro ratu* share of the fair market value of the travel.

20 20 20 20

C. 11 CFR 100.83(c)(1)—Non-Gommercial Air Travel by or on Behalf of Candidates for President, Vice-Freedent, and U.S. Streets

MLOGA requires candidates for President, Vice President, and the U.S. Sendle to pay their "mm rate there of the fair market value" of noncommercial flights aboard aircraft. The dividing the fair market value of the normal and usual charger from or rental charge for a comparable plane of comparable size by the number of candidates on the flight." 2 U.S.C. 435a(c)(1)(B) (exaphesis added). Accordingly, new 11 CPK 100.93(c)(1) requires that the entire charter rate for e, comparable alward of comparable size be divided unua; the candidates absend the flight, or Yatir representatives, as progress in the NPRM.

beceeting a few senter All of the corre this topic supported the sequinament that presidential, vice-presidential, and Senete cancildates pay the entire charter cost, seiner than allowing other political ensualities or non-campage travilers to pay for tight away portion of the fright. The final rule distant from the

proposed rule only in that under the final rule the cost of the flight supplit of compaign travelers flying on behalf of each candidate, rather than split evenly sessing the caudidates as proposed in time NERM, 72 FR at 59958. The ment rule therefore provides a more accurate reflection of the projection of the benefit derived from the light by each sandidate, while still regating

To the extent that any parties of 11 CFR 9004.6 2004.6 is no common with 11 TFR 1911 19. estion 100.05 govern.

presidential, vice-presidential, and Seaste unddintes to pay the antime charter cost. For example, if Seaste Capdidate A is traveling with two campaign staffers, and Seaste Candidate B is also traveling on the absent, and seali cardidate is traveling on Schalf of his or lier over sampling, then Causting A mould pay these families of the absence fine and Causisials B would

pay our must.
This result is also consistent with the comment submitted by two of the spensors of HLOGA, Senstors Fringold and Orama, who suggested that the cost of the Hight be spin carring cardinates in preparation to the benefit dislevel by sells campage. The Sensions stated that this approach would be consistent with the payment for air twell segment with under the Sensie Rings Rules. See Standing Rules of the Sensie, Rule XXXV, Paragraph 1(c)(14(C)(i).
Under new 11 CFR 109,93(c)(1), the

"pro Tuta share" is calculated based on the ranther of candidates represented on a flight, regardies of whether the individual cumultum is present on the flight. This provision is treatment with HhOGA, which limits suppossitutes for non-communical six image by presidential, vice-possidential, and Seriate candidates, and their authorized committees. A candidate is represented on a flight if a person is traveling on behalf of that candidate or the candidate's authorized committee. See 11 CF# 100.00qui[1]. Thus, for warmple, if America Charlistote & termie with the commonly manager of dissect the cities is B, but Cardidate B days not town!, then the two Sunate caudidates must nonetheless each pay half of the charter rate. Candidate B's committee receives the same benefit from the travel by its staff as if Candidate B bad taken the flight. This result is the sum at programed in the NFSSM, which was summand by all of the nonemerature adjustments; sate report of the proposed

Under new 11 GFR 100.93(c)(1), when a presidential, vice-presidential, or Sensie candidate, or a representative of the candidate, is travalling on behard of another political essentitive drach as a pditical party committee or Sensie leadership PAC), rather than on behalf of the candidate's own authorized committee it is minumanishing a first traval is the minumanishing of the political semmittee or those condidate's leadership PAC, then the appropriate rainforcement rate for their political committee is other than an authorized committee or House condidate's leadership PAC, then the appropriate rainforcement rate for their political committee is set forth in new 11 CFR 100.93(c)(3), discussed believe. In much cases, the presidential,

vice-presidential, or Senste candidate, or candidate's representative, is treated the same as any other person travelling on behalf of the political cammittee."

on behalf of the political cammittee."

The reimburisment rates for turnel shoard government rotes for turnel shoard government operated aircraft or strengt owned by a candidate or a member of a cantificate's threat times itself, we instead separately in paragraphs (a) and (a) of 11 CFR 100-00, and (b) of 1, below.

2. Alternatives Not Asiquid

in the NPRW, fire Commission sought comment on three alternative suchodologies for calculating the entroprists sutinbursement rate for travel by mandatoff in, whose prestimation, or Sensies randiffsion and their

representatives.

Pirst, the NPRM inchesed governi variations of a "per coremittee" alternative that would have required reimbursement based on the number of represented committees of any type. rather then the munner of repres candidates or cassidate committee Second, a "pass passenger" alternation would have majorised considerate to reimbures the service passider for only that postion of the normal seni wavel er rate that reflected the number of candidate representatives as a percentage of all passengers on the aircraft. Thati, a "comparable sucreft" alternative would have followed the spyroath in the Ottomission's 2003 revel rapes på barnennin reimbunasha est at the morned and word charterents or sented though for an sixcraft of militainateins to energy all mi e campaign travelers on the flight. See 11 CFR 100.93(c)(3) (2004) [requiring reimbursement of "the margas and usual charter fare or rental charge for a comparable communical strukers of sufficient stee to assummed at all

esampaign terminent").

The Generation has decided not to adopt any of the alternative methodologies proposed in the NFRM. The Commission believes that the methodology in the final rule described above is most consistent with the language of HLOGA. Mixeover, the Commission believes that the proposed alternative satisfied ologies might have

lent themselves to manipulation, with the ment that compensions, political committees, and others early provide a handli to the candidate or political committee on whose behalf the travel was undertaken by allowing the candidate or political committee to pay less than its provide alare of the Candite to provide than its provide alare of the Candite the proposes alternative symmetries the proposes alternative meshiodriogles were inconsistent with its intent of HLOGA.

One community prepared as alternative based on the "comparable aircraft" alternative proposed in the NPRM. This alternative would have followed the appreach in the Commission's 2000 transit refee by permitting relitheranteet in the succeiand usual challer rate or rental charge Ar an aircraft of maliniant size to coury all of the campaign travelers on the flight. See 11 CFR 193.93(c)(3) (2004). The Commission is not adopting this commenter's version of the "comparable minualt" alternative because it would . allies for the patiential reduction of costs by using smaller extends for companion purpases retime that the sieut actually flows. Mortones the additional separate calculation of the fair resist value of the flight actually taken would add unnecessary complexity to compliance with, and enforcement of, the rules.

3. Travel on imbalf of Leadstrabig PACs of Senats, Presidential, and Vice-Presidential Candidates

WLOGA path bits non-commercial air travel on behalf of legdership PACs of House candidates, but it doe minibit such trevel on belinif of leedership PACE of Sounds, proclamatial, or vies-presidential candidates. Nor does HLOGA specify the rate at which the Senate, postdential, es vice-presidential commisses landership PACs must reimbune s muriles man to avoid a containation, as it doe those candidates and their authorized committees. For the reasons set forth below in section III.E.1, the Commission is applying the reimburgement rates in 11 CFR 100.93(c)(3)(1)-(iii) to travel on behalf of the leadership PAC or any Senate, presidential, or vice-presidential canditiate to wake the new rules consistent with the Campionist pate ovel regulations. Those miles verse set win fel the Commission's 2008 transl rules: first-class, coach, or electer retes, depending on whether the odgin and destination cities are served by regularly scheduled commercial strine service.

[&]quot;One communicated the Chinastiche de sittenes abyputhetical presents in which the chairmen of a pilitical party communes and a flenate condition both therel eleved a restrict a generacidal elevant in a political party ment ultima fundament. In response to the request, the Commission works that because the conditions would be busishing on histories the middle purpose would be involved. Therefore, the political party committee would pay for the candidate's portion of the travel. See 12 GPR 180,63(c)(2).

D. 11 CFR 100.93(c)(2)—Non-Commercial Air Travel by or on Behalf of Candidates for the Houas of Representatives

New 2 U.S.C. 439a(c)(2) states that "in the case of a candidate for election for the office of Representative in, or Delayateur Remark. Commissions: to, the (longene, an entherised semantities and a leadership PAC of the sandidate may not make any expeculiture" for non-communical air travel, with exceptions for travel on government-operated airplanes and aircraft owned by the candidate or members of the candidate's thingellets itsuily. BUth compatitues are discussed believe. The effect of thing promising is governmently to problim travel by Hagne sandidates on non-normanical aircraft.

in the NPRM, the Commission proposed a general rule that would prohibit non-commercial air travel by House candidates and sought comment on whether House candidates thould nonetheless be pessitted to tental on non-commental situation to tental on their own as assigned if the seat of the traval is possible in-kind contribution. One group of commenters addressed this question and urged the Commission to prohibit non-commercial air traval by House candidates as perposed in the Alithat and not allow such travel if it was possibled by a penningious setups as a penningible in-hind exclusions.

The Committeien agrees with the commutation, and is inhoping the makens proposed in the lifeth. See 11 (EE 100.93(c)(2). Outside of the emagnitude for travel on government-operated and candidate-owned aircraft, there is no discussion in the inglishive history of this precision to indicate their largests contemplation allowing non-contemplatical air travel by House sessibilities, instead, statements by apageous of the new law referred to a "ben" on House travel. See, e.g., 153 Cong. Rec. \$10713 (daily ed. Aug. 2, 2007) (statement of HLOGA sponsors offered by Sen. Fainstein). In addition, the statute itself does not include any reimbersument rate for nexcommental travel by House and dillino, whereas thoughts the life in militation.

Near 11 Chr 100.43 (c) pristiffs
House smaltistes, soil indistibles
treating on bishelf of House smaltistes
their spinorized committees or
leadership PACs, from anguing in reaccommercial compaign travel on sixtrait.
This prohibition cannot be avoided by
payments to the service provider, even

by payments from the personal funds of a House candidate.

The prohibition deep not apply, however, when the inval would be considered an expenditure by someone other than the Heuse candidate, House candidate's sufficience candidate's sufficience candidate's sufficience candidate, are a political party canumittee, would be permissible se lang as the political party committee, would be permissible se lang as the political party committee or candidate on whose behalf the travel occurs reimburses the service provider at the appliticable rate under 11 CFR 100.03(cM) or 199.

E. 11 CFR 100.93(c)(3)—Non-Commercial Air Travel by Campaign Travelers Not Travelling on Behalf of Federal Candidates and Their Representatives

In the NPAM, the Remarks inn. proposed two alternatives with mapual to non-commercial air travel by individuals traveling on behalf of political party committee and st itiga ikut ament candidates' authorised committees or House camilatter' lesdenists PACs. The first alternative would have analied the charter rate applicable to travel on lehalf er Senate or presidential candidans unless one or more candidates recondidate representatives ere also showed the Right (in which ou the candidates well a though to paying the enthusuablishes must raise to the service premium). The messad service president. The mesnet alternative would have retained the rates in the 2003 travel rules, which permitted reimbussement at the firsteless or coach rate by campaign travelers other than camildates. For the reasons explained beleve, the Committeen Wedopting the succession of the succession with many lating examining traveless when one and traveling on he of candidates to comment to pay the tes in the 2002 trevel miles. See 15 CFR 100_03(3).

1. Campaign Travelure Wito Assiste Townshing With us us: Balanif of Candidains

The Commission is not changing as correct resolutions for compalga traveling who are traveling on behalf of political party committees, SSFs, nonexessed committees, and

certain leadership PACs. Thus, 11 CFR 100.93(c)(3)(t)—(id) preserves the three reimbursement rates his non-commercial six travel in previous 11 CFR 100.93(c)(1)—(3)—first class, ceach, or charter—with the applicable rate depending on whether the travel is between two cities with negotiarly as heluled funt-chans or teach commercial siding serving.

In 2003, the Commission extended its previous travel angulations to cover all travel in connection with a Federal election, stating, "[bly establishing a single rate for travel reimbursament, the new rules will promote greathr unsistemity emong all individuals travaling in connection with a Pederal election on laskalf of a palitical committee." 2022 Ed.J. 68 Fix at 85/85. The Commission promulgated rules that applied to candidates and those taxables to candidates and those rules to their campaign terrelers. HLOGA, on the 8ther land, steplicity

HLOGA, on the other hand, steplicity addresses the configurations what can be only for campaign tensities what can tensities or an investing on tenhalf of authorized committees. Services 439a(c)(1) applies by its own tense to a candidate (other than a House candidate) or any authorized committee of such a candidate. Section 439a(c)(2) applies by its own terms to House candidates, their authorized and detection 439a(c)(2) applies by its own terms to House candidates, their authorized.

emmatitees, and their indentitip PACs.

Several communication sugared that:

HLOGA's allower with comment to coverage of all political actors amounts to implicit approximal of the Commission's 2003 travel rule, which permitted all comparing travelers.

conditions and non-candidate alike, to pay he travel at either the first class, couch, or charter rate, depending on whether the erigin and destination class are served by angularly subschied commencial shifted strates. One commenter assessed that to appeal the charter rate requirement beyond

HLOGA's expansi language would be tentamount to assuming a legislative rate in an area in which Members of Cangress operate on a day-in-day-out last. Two additional commenters of that HLOGA's schools with respect to these other types of greating a legislative constitutes a form of "inglaining constitutes a form of "inglaining enquiescences" in the Gaussianing and regulations. No commenters embraced the proposal included in the NPRM to extend the charter political argunitation.

minuittees.
The flormilition disagrass with the squares that by enacting HLOGA, Congress set smill few sequires reimbursement sain for all semples.

[&]quot;Although the general rate in 12 CFR 100,02(b)(2) status that no contribution results where a compaign tennils: pays the secretary of Staticity requilibration in secondarse with 13 CFR 100,02(c), there is no aste applicables to figure candidate in 12 CFR 180,03(c). Thus, 12 CFR 980,03(c) does not parmit House condidatable larged on mocconsecuted absents by paying the causes provides.

travelers. HLOGA's supporters spoke mest explicitly to the provision's coverage in terms of its impact on Member and lawmaker travel. Thus, together with HLOGA's Section 601, Congress views determined the "morned and usual charge" for noncommercial transit on wheath is est in mid on evaluation arraysittens without distributes the Generalistica's approach that is currently in 11 GFR 100.93(c)(3). This provision requires non-exadidate campaign travelers to pay the first class, couch, or charter rate, depending on whether the origin and destination cities erroward by sugalary schaffuled communical earlies service. High political arrangithm or minus ball campaign traveler is flying is responsible for paying the required retinhupement rate. For example, if thme representatives of PAC P accompany a representative of Party Committee C, and the travel is to or from a city not served by regularly schoduled communici strline service, the cost of the Caster repord be divide by the number of engatign templine (four). PAG if would pay three fourths of the chaster cost while Party Committee C would pay one-fourth of the charter

2. Candidahis Transling With Aten-Candidate Gampaign Traveless

When a Statush condition (ether than a House candidate), or person traveling on behalf of a candidate or candidate's suthorized committee, where a non-

commercial flight with one or more campaign travalers who me not traveling on brhaif of a candidate or candidate's cammittee, the candidate must pay the cost of the entire charter fare for a comparable siturate of comparable size present to 11 CFR 100.93(c)(1). Element as permitted under 11 CFR 16fl \$\text{Sp}(\text{N})(3)\$, sampling travelers who are not traveling on highly travelers candidate, or House cardidate committee, or House cardidate's payment children relieve the candidate's payment philipstion.

For commels, Stanste Candillate A, Senate Caratifate B; and Caratifate B's campaign susuager travel on a plane on labels of their magnetive control on their magnetive control of their magnetive P traveling on labels of the PAC. The parties share of the fair market value of the flight is determined by dividing the normal and usual charter rate for the plane by three because there are three individuals who are candidates or traveling an behalf of candidates or traveling an behalf of candidates or traveling an behalf of candidates of Candidate Bis cassautign susuager). Mass 11 CFR 100 officially hance the sale calculation on the proportional shape of travelers attainable to each Sanste candidate, so Candidate A pays one-third of the charter rate and Candidate

E pays two-thirds. 10
The FAC need not reimbuse the service provides for PAC representative P's travel because the sentide provides will be compensated at the fall charger rate for the flight by the sea candidates. Moreover, me in-kind contribution from the service provides to the PAC will result because the payments by Candidate A and Candidate B will fully compensate the service provider for the value of PAC representative P's travel. The authorisal committee provider for the candidate must report its payment to the service provider as an engantiane rad need not report any perform of the payments to the service provider as an in-kind contribution to the PAC.

F. Additional Revisions to 11 CPR 100.93(c)

مدرود رازين داري

1. Presidential and Vice-Presidential Condidates

The Commission continues to treat issual by publicly financed presidential and vice-presidential medicates the same as travel by presidential and vice-presidential and vice-presidential ambitudes who do not receive public funds. Therefore, 11 CER 100.03(c)(1).applies to presidential and vice-presidential candidates who do not receive public funds, while 11 CFR 9004.7 and 9034.7, discussed below, eastistue to incorporate the 11 CFR 160.06 rates by refinance for consideres who accept public funds. One important distinction, learness, is that a possidential candidates accepting public hands for the gaperal election is prohibited from mooring any in-kind contribution from any person, including an in-kind contribution of non-commercial air travel. The Commission did not receive any commercies on this appect of the refer.

2. Commercially Reasonable Time Frame

HLOGA requires candidates for President, Vice-President, and the U.S. Senate to pay their gars with share of non-commercial wavel on aircraft "within a commercially reasonable time fastes which the flight is taken." 2 U.S.C. 499a(c)(1)(B). The Gammission implements this requirement by spanishing in 11 Cife 100.93(c) that the "commercially reasonable time frame" for payment is within seven days after the first day of the flight. This time frame applies to all payments required under new-11 CFR 1880.

The seven-day time Frame was established in the 2003 travel rules, and nothing in the second-of this emissionaling suggests that a longer on themes pathol is warranted. Mos has the Commission's experience in administering and emiorchy the 2003 travel sale indicated any reason to adjust the time frame. The Commission remained only one segments addressing this time frame, and falt comment supported the seven-day time frame.

G. 11 CFR 100.83(a)—Other Means of Transportation

For other means of transportation, such as limousines and all other sutemobiles, theirs, and buses, a

esthoribed committee, wheres a non
"See, a.g., 112 Cong. Rec. \$2435 (daily-q). Mer., 24, 2009) (statement of See. Obeims) topocking for terms of musicum presching apit "to a largealist"), 112 Cong. Rec. Michail (discussing public particularly of See. Nifechall (discussing public particularly of See. Nifechall (discussing public particularly of See. Nifechall (discussing public particularly of See. Nifechally of See (daily od. Jes. 4, 2007) (statement of See. Machan of See, MacCain) (documing on "the shilly of a Mamber to terms on a corporatif jet"), 183 Cong. Rec. \$144 -49 (daily od. Jes. 14, 2007) (statement of See. Reid) (describing his otten self-citation and describing on compared jet and the shift of See. Reid) (describing his otten self-citation and of See. Reid) (describing his otten self-citation and our server jet with secure that Manham showing on surperse jet with the shame with the citation and " ""), 113 Cong. Rec. \$1000 (daily od. Jes. \$1000 (daily od. Aug. 2, 2007) (statement of See. Reid) (" it requires Seenter Rights, which put an end to the abuses of curporate travel."), 133 Cong. Rec. \$1000 (daily od. Aug. 2, 2007) (statement of See. Reid) (publication on surperse his heatens pay the fall obstruct sets on surperse his heatens pay the fall obstruct sets on surperse his would have to pay for them at the charter me " ""), 153 Cong. Rec. \$1000 (daily od. Aug. 2, 2007) (statement of See. Reid) (the law "requires Winders to pay the magnet part is for charter Rights, which yet an end to discribe of esoporate travel.").

in-kinc manuser posed a hypothetical situation in which the chairmen of a political party separables, when is since. Spinial marifals, takes non-commercial six travel to serve as the hypothe aposher of a handeries to beteff a joint fundations constitute hither in the publical peny compiles and his coun emerging for the U.S. Sancia. Security the joint fundations committee in treatm as an antimization committee of the Sancia condidate, see 11 CFR 102.17[a](1)(1), the Sancia condidate's principal company committee (another cushorized committee) struct pay for the travel.

committee) start pay for the travel.

11 One commenter posed a hypothetical scenario in which the chairmen of a political party committee and a Sunste candidate both travel about a zon-commental about. Assuming that the Sunste candidate is traveling on behalf of his own campaign, his authorized committee would be responsible for the fall cost of the charter fire. See

¹¹ CFR 100.19(a)(s). The executable regarded that such travel be recogled as an in-kind trapeler from the Senate candidate to the politikil party-committee, but this party raise dis not require the candidate or political party committee to record any such in-kind transfer.

political committee must pay the service provider an amount equal to the normal and usual fare or rental charge for a comparable commercial canveyance of sufficient size to accommodate all campaign traveltes, including mambers of the news media traveling with a candidate, and usuality personnel, applicable, in CPA 100.54(4). Tale provinces is subattratelly ide the 2003 topol rule and to the rife proposed in the MRRM. NPRM, 72 FR at 59965. HLOGA does not address travel on any conveyances other than aircraft, and the Commission's experience administering the 2006 rule for nevel on north Brillon (Sun tilliane): alloca melt indicate that a change to the raise regarding travel on contagnations s electron is warranted.

The Commission did not receive say comments on proposed 11 CFR

100v.93(d).

H. 11 CAR 100.000)—Saummer

Tile Commission's 2003 travel rules at 11 CFR 100.93(e)_required reimburgement for travel aboard airplanes provided by the Federal governments on by any State or basel government entity, at the same rate as travel whoard other simplanes. Noncommencial campaign travel aboard government conveyances other than singal was the bursed under former 11 CFR 190,40(e)(2) at the sumwedle as trevel should the squared and an of treaspendentian and generally by a government emity. His ColA gene hibits House candidates faces using campaign funds for non-commercial travel, except for travel aboard an aixcraft "operated by an entity of the Federal government or the government of any Sing." 12 2 U.S.C. 439e(c)(27,5).

An noted above, under the Commington's 2016 rules the countried reinsimmeneant unte for turnei ou government singlemen was the first-cl cough, or chainer rote, impanding an whether the towel occurred between cities served by negularly scheduled commercial sirline service, and whether that service was available at a first-class or coach rate. For wavel to or from a

military sirbase or other location not successible to the personal public, reimburament was required based on the lowest unrestricted and non-discounted first-class sirfare to ar from the city with regularly scheduled firstclass communcial milline service that is geographically closest to the military airbase or siles lounies actually t to we desired word. Section Gul of HLOMA fittel per exception to the psahibition on House candidates and their authorized committees and leadership PAGs from making expenditures for travel on noncentmercial attract, but does not specify any particular relative teimburstment for travel abourd

governus minumented sircust.
The MPSint prepared a sat of two different rates in 12 CFR 199.93(a)(1) that candidates could choose from for reimbursement for government-operated sircraft. The first rate, proposed in 11 CFR 100.93(e)(1)(i), requires reimburament of the appropriate government withy at the pro rate share per represented candidate of the me and usual charact face or mutal charge for the liquit on a compressional coult of sufficient size in any commodute all of the sumcions was an americanocides an of the emposion tessules (the "per modificial campaign tessules" relativareament rate). The second rate, proposed in 11 CFR 100.93(s)(1)(ii), requires reimbursament at the private traveler reimbursament. rate per campaign waveler, as specified by the government entity of aircraft (the "payette trave ment entity epsetting the reimbusement sets). The MPSM did not proposmeny substitutive changes to 11 [28 100.88(c)]; which governs unvel on government conveyences other than

The Commission did not receive any comments on proposed 1? CFR 100.93(a).

Except as disense the low, new 17 CFR 100.03(e) is the team as yet in the NPRM. Accordingly, a candidate compaign travelyr, so the authorize committee or House leadership PAC on whose balant the travel is conducted, must reinitures a generalisational satity for ereval on any government-operated aircraft at either of the two rates set out in new 11 CFR 100.95(e)(1)(1 and (ii).

1. 11 CFR 109.68(e)(1)(i)--"Per Candidata Campatyn Traveler Reimbursament Rate

Linder the revised rules, the applicable charter rate is for a comparable aircraft of sufficient size to accommodate all of the campai traveless. United 12 (FR 200.03(c)(1), which requires the charter rate to be hased on a comparable aircraft of comparable size, the comparable streraft used for the water of the characterists in

11 CFR 100.93(a)(1)(i) need not be the same size on the government-or aircraft actually used. Similarly, the comparable government aimait pard not be capable of accommodating the adnihment speard an Sassamment-non-combatta beasanfers and ind abunult.

Manbers of the main theriting with a candidate, and semulty personnel not partitled by a government curity, must be included in the member of compaign travelers for the paracase of identifying a comparable aircraft or sufficient size to accommodate allef the campaign travelers. A comparable sircraft, mer, naud not be able to accommodate persusasent-sequintal personnel (s.g., instant Semiles or National Semulty Agency = Elects provided to protect the amiddate) or government-required equipment [a.g., balky security or communications devices provided for the pational security or communications needs of the vandidate).™ For example_a significant portion of Air Parco One may be occupied by passennal and equipment mandated by assisonal security requirements and other news assumings.

mpaign. Government-required security personnel are not included in the personnel are not included in the number of campaign travelers for the purposes of identifying a semparable sircraft. The purpose for this suclusion is to avoid penalising castilidates who see auguired is teaml with generalization to pay the charter rate for a larger strength than would otherwise be needed to travelers and their transport such candidates and their compaign travelers. All security personnel, including governmentprovided security personnel, are indicated, increaver, in determining the number of emugaign travileus for purposes of emugaign travileus for iso (1912 share, This is comistant with the parallel providence making travel on private eircraft (11 CFR 100.93(c)(1)), see with the provision concerning el on government-operates aircraft that is reimbursed at the "private transfer" retendurament rate (11 CF) 100.93(a)(1)(ii); see disussion below]. A candidate's autimained committee must this galandrame the corrise penetitie for the come municipal of engaged in tennaless repardless of whether the trivel engine

[&]quot;BROUGH Hadrish amends the Statell effection of the Statell egreent to reggine State or by you be now made and the state of the state mades where a flight for extraord current radion withy a governmental entity." See Public Law 126-51, egg. 544(falxi), assimating Princepoph Vial(1) of rate XXXV of the Statellary gap with respect to travel on around a sugglatory gap with respect to travel on around to populated by local governments, new 11 CFR 100.05(e) applies to quinquign travel on abstract optional and State government entities in addition to Federal and State government, as proposed in the NFMA. The Commission did nut sheatve any comments on this provident.

¹² The term "green-most expained personnel" monapower individuals emigreed to monapoer mapaign traveler for shoots of residents security consumprates intivitation and ghost to meaning a company in traveller for ribusts of majorial security or other edicial purposes as required by have or government policy. It does not encompany a Federal editorholder's stell or other individuals with are "required" by the editorialities goody by white set that stell modificate.

on a private or government-operated aimreft, and regardless of whether the candidate is reimburning at the "per candidate campaign traveler" reimbusement rate or at the "private traveler" reimbursement rate. The Seneral rule regarding reflabursement to a caudidate containing remoursement to a caudidate containing by saudies of the same animit set government; previous semanty semanted (11 CFR 100.23(b)(3)) applies to both private and government-operated sincress.

For example, if elemen pushinger (Presidential Conditions A and two campaign staffers traveling on behalf of Presidential Candidate A, Senate Candititie S traveing on behalf of her oven semestign, PAC repairementies P, four municus of the name media transling with Presidential Candidate A, and two members of the Secret Service required to travel with Candidate A), travel en a twelve-seat gavernment aircraft, reimbursement would be required at the notinel and usual charter rate for a comparable direraft of entitions are a second and a second a second and a second persugues. Tak New (haret Sersial agents were and La countries subun detempining the sim are companie aircraft because they would be "government-required personnel."
Given that no portion of the nosmal and usual charter fare or rental charge may be attributed to any non-candidate campulgo treviler or any other er, the charter thru would be divided by the (the number of cendinates, tistis compaign ettairus, manham bi dae macia, and successy personnel traveling with the candidates). PAC recessarings P weeks not be required to reimbures the government entity for his or her travel and is not permitted to assume any of the payment otherwise required from the guzaidless.

Thus, Presidential Candidate A varuld cy nihe-waths of the full the for tere Mareile succonic citis mi and Streets Candidate B vessibles, one taxed of the chestar sent The forestendie regues satistims or their employers may reimburse Presidential Candidate A for up to low-tenths withe cost of the ninesest charter sireself, or pay tite government that amount dim prominent ter 11 CFR 9400.40(b)60).24 Liberatus, the Summi for stee man reimbure Guraldeta A up to two scuthe of this east for the true Kampt Service representatives, or it may pay that

amount directly to the government entity providing the singreft.

A. 11 CPR ECOMPRANTICID—"Private Traveler" Reimburgement Rate

The second rate of reimbursement, the 'private traveler" reimbursement rate, requires peyment of the race specified by the Father, State, or local by the Full government agency or other generate entity operating the six of the government antity has established a schedule of retes beard on the type of traveler, and the schedule include rate for private travel on its surcialt by members of the public, then fire competin traviler discussing tills options must reinsburge the government of talet rete_15

For cargaple, if the same glount. turvelow (Presidential Candidate A and two campaign staffers traveling on behalf of Pessidential Candidate A. Senate Candidate B traveling on bahalf of her own compaign, PAC representative P, four mambers of the media waveling with Prosidential Candidate A, and see Sparet Storks agente seminal to travel with Freelderslok Carringsto A) transi ab an aircraft operated by a State government, etting candidate could choose to pay the "private traveler" reimburgement rate if such a rate is specified by that State government instead of the charter rate for a companiols sixual of sufficient flow to accommodiste the energity newstars. If tino State government mermally discusses fitto per pursua per hour for use of tile aircraft in first in fining appeales suit \$200 per namemper hitter for private travel by authorized fitting employees and members of the public, then each candidate choosing this rate would pay for the campang: travelers traveling on behalf of that cambidate at the \$150 per person per hour rett. Presidential Candidate A is responsible for the cust of the terrel of the two facus: Section mponts waster 11 CFR 100.03(q) 12(11).10 Precidential Candidate A's payment for nine campaign travelers is a total of \$1,800 per hour, although the hour, media representatives could reimbures Smuldental Candidate A up to a total of \$500 per leser to sever the cost of their

based on an hausiy sate for tim entire sircent, then the cardidate charming this rate would calculate the amount finat he or she must reimburse by determining what his or her share of the entire hourly rate split littleen the two candidates and the HAC is, m propertion to the number of complete travelers traveling on inhalf of such position committee, including the mentla representatives transity with a candidate, and mounty paramet. There are a total of sleven campaign becames on the flight (Presidential Gandidate A. two campaign staffers toweling on Blink of Presidential Candidate A. Stuatt Caudidate B. few members of the sentia traveling with Presidential Guzzhinta A, teen Susset Service agents required to teoral with Presidential Community A, and PAC Representative P), so Presidential Candidate A must pay nine-elemenths of time handly rate, for which the media could reimbures the candidate up to imer-elevenths of the charter rate est the Secret Service could relinburse the the Secret Secrets over transmission of the charter rate; Cuellinialy is mant pay as alevanth; and Phil Banasagative P eleventh; and Pric Rum must pay omesis mail

The Commission did not receive may meants on this aspect of the gargement rule. The rule is unchanged from that proposed in the NPRM. See 11 CFR 100.03(b)(1)(ii).

8. Travel on Air Force One or Two

The Commission saught, but did not receive, comments on whether it should parimentate final raise specifically to midden travel on Air Force One and Twe-18 The Commission is not promulgating mespersis rule for tressl on these sircraft because the application of either of the rules in 11 CFS

¹⁰ The Commission is arrest that the White House Transi Office has agreementh with the White House Commissions Association psychilds three accompanies for sturilizes of the market, and these rules are not intended to after those systemants.

travel and the two Secret Service agents equid reimigante Presidential Camildate A up to a total of \$400 per hour for their travel, Candidate B's cost is \$300 per hour to cover the candidate's own travel. PAC representative P must pay for his or her own travel at \$200 per hour. 17 II, however, the gammamoni anilly's private travelar azimbursement rate is

¹⁸ The Depthismal of Indicions forwards, publishes a list of hearty establishes are returned and health speak rates for both fixed-wring aircraft and health speak and includes an "All Other Uner" sub, which is the private travels officed they should be limited for limit for 2010 Reliables and listes, aveilable at his sume, defined health matter, aveilable at his sume, defined health matter, aveilable of his sume, defined health matter and the first sum of the list of the sum of the first sum of ent sales for

ble for the cost ry reimburse Candidate A to: wel under 11 CFR 100.03(b).

[&]quot;Parauent to 11 (This manufaltalistic) may individual toroiding in sequentian with at Riccion for Pederal office on behalf or a political committee

for Federal office on behalf or a political committee is a "campaign travelet."

"Att Force the headilingstill in many with its any alignment that is possible transposition to the President of the United States. Are reconstructed to the designation conjunction any singline that is providing transportation to the Vice Frankfant of the United States. Marine One is the designation used for any Marine helicopter that is providing transportation to the Frankfant States. "includes simplement and helicopters, this discussion is equally applicable to Marine One.

100.93(e)(1) is sufficient to address tream on Air Fonce One and Two.

Specifically, reinhursement for trevel on Air Force One or Two using the "per candidate comparing traveler" rate (11 CIR 100.93(a)(1)(i)) alteredy provides that the starter rate be beauti on an aircrit of "sufficient site to ecusional and comparing the starter of confisions rate to ecusional and government required personnel and equipment. Tressel elmerd Air Force Can ar Two therefore would simply be a specific applicable for travel on all government-operated afteraft.

4. Non-Gradidain Campriga Travelos

The Control whenever it, but did not receive, comments on the extent to which compaign revolen fly on government-operated alreadt when not traveling with, or on behalf of a candidese or candidete's committee. For example, a representative of a political pery committee might travel in communica with a Federal election on a government-operated africall on white a Paperal constitues to met also present In the abouthest a mount indicating that this terms is frequent enemals to justify a agreement provision in the rule, or that a gracial rule is needed, the final rules do not treat this potentially hypothetical situation differently from other travel by non-candidate compargn travelers on non-commercial element. Thus, new 11 CFR 195.95(a)(2) is the same as the 1992 rule for turvel on a gonerment sisteact. That is, if the name consider computes translet terms to a military base or other leastim and accessible to the general public, the traval must be reliabured at the lowest unrestricted and non-discounted firstclaus elflure to or from the city with Mily-schodules first-class commercial divine previou that is geographically clauses to the military attitude or militar boustum actually un-Otherwises; the company tenente as remainment the government in n amb restributes the government in acceptance with 11 CFR 199.93(c)(2).

5. These Plaint for Ritinibusyment of Turnel on Geogrammat Conveyances

New 11 SEE 160.50(d) provides that payment must be much within in time purious aparatists be the government entity providing the aircraft or tither conveyance. This policy defers to a government entity's management of its own strandt and avoids patential conflicts with that entity's own regulations. The NFRM did nor propose a specific time pariod for reimbursement for travel on government preparations along the cities of the interpretage same, and the cities of the interpretage same, and the Commission did not receive any

comments on an appropriate period.
The government entity's emmunicatility for the use of its aircraft serves as a check on potential abuses in payment delays by compatent travelers.

I. Proputed 11 CFR 100.93(g)—
Exception for Aircraft Owned by Federal
Candidates and Their Lumedian Family
Mambers

HLOGA's assendaments to 5 U.S.C. 439a custimiz on exception from the payanent and reimbursement quirements for travel aboard aircraft that are "owned or lessed" by a candidate or a candidate's immediate family member thereinader "candidite owned"), including as arrows! owned or leased in any edity in which the candidate or a manufer of the muddate's tenter like family "has an ownership interest," pre-skied that (1) the entity is not a "public corporation" and (2) the was of the sixurali is not more than the candidate's or immediate family member's proportiones share of ovenen allows." 2 U.S.C. 435a(c)(3)(A). In the NPRM the Comminstate persons a a surv 11 (SEE 136,40(g), in which the exception wants apply is all of the sestrictures on expenditures for air travel in new 2 U.S.C. 439a(c). See discussion of new 11 CFR 113.5, below. The Commission requested comments en this proposed exception, new 11 CFR

100.93(b), but received none.

While the exception relieves the restrictions on unushistance, it still requires a candidate to telephone the service passisters (conditions, members of their lapradiate family, or entities in which either ewas an interest) if the sandidate seeks to evoid receiving un inhind contribution from the service provider for the candidates is use of the aircraft. Nov 11 CFR 108.93, 190w section 100.93(g) sett out the appropriate reimburess sut rains. Seen though candidates for featured affine any maken unlimited contributions distributes must be reported by their sutherland committees. To 11 CFR 110.10; Advisory Upinions 1991–09 (Hospland), 1980–09 featured; 1980–09 featured; 1980–09 featured; 1980–09 featured; 1980–09 featured; 1980–09 featured; 1980–198 (Collins), and 1984–80 (Mulloy). Contributions by all other persons, including immediate featily members, are subject to the application and including immediate featily members, are subject to the application.

11 CFR 110.3 of seq.
The NPRM proposed three alternative raimbursement rates as follows:

The first alternative would have sequired reimbursement for aircraft owned by candidates and their immediate family members at the rates set forth in the Commission's 2003 wavel rules. First-cases, coach, or charter rates, depositing on whether the efficient and destination atthesance seased in regulary scheduled memorants airline services.

The second alternative wealth name required reimbursement for the "incremental cret" of operating the sircreft, meaning the source such as and any incremental costs such as

landing fees but excluding depreciation. This third elementive resuld have been based on the "stread soit." of operating the element, such as the hourly, mileage, as other applicable rate phasmad the candidate, corporation, or immediate family member for the coats of the travel. For example, if a candidate traveled on an aircraft lessed by an immediate family member at a cost of \$2,000 per hour, the appropriate same large member wealth iners item \$1,000 per hour.

New 11 CFR 108.83(g) membines several aspects of these elementies. The Commission is also re-organizing the rule in recognition that an increasing number of sixtrel are operated through stand-ownsrship arrangements, while other sixtrel may be owned solely by the candidate or the candidate's immediate family measures. In addition, the new rules adjust the sixteers limitations where the strengt is sweed through a shared-measuring arrangement, the candidate's use of the strengt must not exceed the proportional ownership interest attributable to the candidate or the candidate's literacties landly member.

The new such provides these alternative rates to address these different scenarios: (1) A should concretite assumptional where the candidate was the should within the limits of the relevant ownership immust; (2) a shored-ownership arrangement where the candidate was arrangement where the candidate was relevant ownership interest; or (3) the sircraft is wholky owned by a candidate or a candidate's hamediate family manifers.

Because the exception in 2 U.S.C. tempin(s) for investion an aircreft council by conflictor or thembers of their translated family permits otherwise resistants or prohibited expandations by condidates and their committees, the exception is limited only to travel by candidates or persons traveling on beingly of candidates, their authorisms.

^{**}There is one comption to this general raje: a \$50,000 instruggline to plifficipthential protein description to plifficipthential protein description (mathiates juvice planery and the protein description. See 11 CFR 9000462), 9233.2(h)(1), and 9033.2(h)(1).

committees, and House candidate leadership PACs. Similarly, the exception applies only to travel by a candidate on an aircraft owned or leased by that candidate or that candidate's immediate family member. The exception flows not extend, however, to travel by other candidates who are traveling on behalf of other political counsities. These latter campaign travelers smust reimbuses the campaign travelers smust reimbuses the candidate or other owner of the aircraft seconding to the rates set forth in 14 CFR 100.001c).

forth in 14 CFR 100.extc).

Pur counsple, # Senses Candidata A is traveling up behalf of his or her sum campaign with Gendicists B on behalf of his or her sum campaign on an elegant owned by Candidate B, then Candidate A must pay half of the cast of the nessel and usual charter rate for a comparable alrere's at comparable size. Candidate B must pay for for treat as a personal centainution) the candidate's own portion of the Hight pursuent to the applicable rate in 12 CFR 100.936g). If Party Campailtee Cifficial C tervels with Candidate's on in higher of the party committee on its limited of the party committee on maintain sected by Candidata B, the puris committee with 11 CFR 100.93(c)(3), Take 11 CFR 100.93(c)(3) payment exception for travel with a candidate would not apply to travel wit

1. 11 GFR 780.88(g)(1)(i)—Use William the Limits of a Shired-Owner-hip Assumption

e with 11 Will 100.66(d)(1).

The exception in 11 CFR 100.93(g) applies to an aircraft owned or leased by any entity in which the condidate or a member of the candidate's immediate family "has an ownership interest," so long as that entity is not a corporation with publicity backed shares. The rates to 11 CFR 100000(g) throubtre apply to a wide variety of absend-gamentap arrangements, including time-charing arrangements and corrain lease arrangements, and regardless of whether the ownership is made-available to the condidate titlengle a examination operator cartification by the FAA.

When a quadicate on a smalling's immediate family member owns or leases an aircraft through any form of shared-ownership or lease agreement, 11 GFR 100.986g)(1)(i) requires the candidate's committee to reimburse the candidate's condidate's immediate family member, or the administrator of the aircraft (e.g., Netlety—or treat as a personal contiluation from the candidate, where the candidate is the

owner or lesses—for the hourly, mileage, or other applicable rate charged to the crudidets, immediate family member, or corporation or other entity through which the arress is ultimately available to the combinet for the costs of the travel. This rainburgement rate applies only to the estuat that the ndidom's use of the almostic flow part exceed the perpentional shape of the ownership imment in thospinsish held by the candidate or candidate's immediate family negatier, as defined in 11 CFK 100.93(g)(3). Secanae a candidate would receive an in-kind contribution to the estant that the andidate is provided with aspethings: candidate is provided with assessment who a ten then the name and un cost, the awarenthy on laure agreems cannot provide a disprayonthate benefit to the candidate. Thus, the nount of use to which the candidate or the candidate's immediate family member is entitled under an ownership or lease agreement must be similar to the amount of use to which other similarly situated owners are setfiled. Par example, if a contidete it one of Sour overses whe cook own 30 percent of an atumat to a sheed-supposite 4 errengement, the cornecting age cennot allow the candidate to use the sircraft free of charge or at a matucad. other owner has access to the aircraft for only tweeny musual of the thirs.

2. 11 CFR 100.93(g)(1)(ii)—Use in Excess of the Limits of a Shared Ownership Arrengement

In some shared-ownership agreements, an ownership interest entitles exch "German" to a specified amount of was as any or mem airse in this case, if a candidate's flight secseds his or her proportional ownership interest in the altered, or that of the unditable's immediate limity member, that flight falls estude of 12 CFR 1(making). See near 11 CFR 100.93(g)(18(ii). Maky a flight that exceeds the une manufited under the ownership agreement, however, would be excluded from the examption in 11 CFR 100.95by). For trample, if a candidaté's sposse sevne en interest in an aircraft through a time-sinus arrangement that estitles the spaces to ten hours of flight time par month, and the candidate usus the strengt for these separate five-hour flights in a single month, the rate provided in 11 (FR 100,83(g)(1)(i) agalianto the first 10 hours but does not apply to the last fire hour flight. For the purposes of this example, the spouse's ten hears of flight time per mouth must not have been otherwise wolf by the spouse or esoth person. If the spouse or austher person

does make use of the aircraft for any part of the ten allotted hours, the candidate's use of the sircraft would be combined with the other uses for resposes of calculating the ten hour Hmft. For the last five hour flight, a Senste, predictatial, or vice-presidential sendidate must provide satisficarement at the rate estimated by 11 CFR me with 11 CFR 100.93(c)(1), in municie 100.95(g)(1)(ii). Exacesize use by a Himse candidate, on the other head, vasade be subject to the general prohibition on non-consecutal air travel by House candidams. See 71 CFR 100.93(c)(2).

3. 11 CFR 100.93(g)(1)(iii)—Wholly Owned Aircraft

When the entire aircraft is owned by a candidate as an individual, or by fi candidate's immediate family members as individuals, the candidate's authorized committee need reimbarse ar report as an in-kind contribution, to the extent permissible) only the pro mile share per complign traviler of the costs seccioned with the top. 20 11 C224
160.93(g)(1)(iii). Times assisted costs include, but are sett identical to, the cost of furl and curw, and a propertionale share of annual and rents maintenance costs. id. For example. factors aircraft must periodically andergo regularly stheduled inhmance in order 🗷 🖼 applicable safety laws, the was spure of these Marifer assure turnities mad fust on inch cendidate's committee used not pay, however, for greated depreciation in the value of the circust filmilarly, seimbursement for piloting and crew expense is not required when the candidate or candidate's immediate family member pilous the atremit and serves as the crew. On the other hand, if a pilot or crew is employed for the family, the cost of their employed must be duded in the minimum and their

4. 11 CFR 105.93 (3)— Ownership Interior and Proportional Share of in Ourseming Interest

HLOGA does not seeine the term
"ownership interest." The Commission
interprets the answ "oversmile litterest"
to include fractional ownership, voting
or equity interest, or use arrangements.

[&]quot;As discussed there, with the mouther of publicly funded presidential condidates, condidates are permitted to make united;— condidates for their person, including insteading fundy weathers, are subject to the applicable amount lights and source problitimes. An altest o-mad entirity by a furnished accessed through a multiple oversubly assessment under 12 CFR 100.03(gl(1)(1) or (ii), notice then (iii).

as well as "time-charing" arrangements in which the condidate or an immediate family mamber pays a fee for a specified amount of travel on the sircraft.

Similarly, HLOGA does not define the term "public corporation." The Commission interprets the term "public corporation." The Commission interprets the term "public corporation with public traded shares. See 11 CTR 1030.98(g)(2). Sharene HLOGA explicitly estands the exception contained in 2 U.S.C. a39a(g)(3)(A) to "aircraft owned by an entity that is not a public corporation," aircraft owned by privately held corporations without publicly traded shares, partnerships without publicly traded shares, partnerships without publicly traded shares, and all mines entities atthem publicly traded shares, and all mines or egging interest small fall within 11 CFR 200.98(g), so long as a candidate or a muscles of the candidates immediate family owns an equity interest or voting interest in that satiny.

The HLOGA exception applies so long as a sundidate's use of the aircraft is not "more than-the carefidate's in immediate shutthe member's propositionate share of ownership allows." 2 U.S.C. 439(c)(3)(A). However, the statute does not specify the exact nature of the relationship between ownership shares and use of the circraft.

New TI CPR 100.65(g)(3) decimes a "proportional share of the cornerskip A" as "the amount of use to which a muchilate or immediate musily menice is califical under an exercision or loase agreement." Rather then account for all of the potential overmential structures of an autity that may care or lease an aircraft, new 11 CFR 108-93(a)(2) cataloistes one general condition for the exception to epp condition for the exception to apply: Unless the aircraft is gened entirely by the candidate or the candidate's insuelists family remaities, the amount of use of the elecatic to which Inch overentists eiters is entitled must be specified in writing prior to the candidate it was all the sirpusse. The Commission does not intend to delve into the various ownership structures, so long as the ownership or lesses greement dues not provide a banefit to the candidate that is disprepartionally greater their the benefit petvided to other well similar ownership interests in threitersh

in crise to sense that the condidate's use of the sixual meaning within the parameters of use specified in the agreement, the condidate's committee must, prior to each flight, obtain certification from the individual or certification's planned use, in combination with the school use, in

aircraft by the person or persons with the ownership intenset in the aircraft, will not exceed the amount of use passetted under the ownership or lease agreement. If any part of a flight door exceed the use permitted under the ownership interest, then payment for the outlier flight must be made under the ownership interest, then payment for the entire flight must be made under til CFR 100.85(c), not 17. CFR 100.85(g). For example, if a cauchists plans a fisshbour flight and the sandidate's spaces to entitled to use an aircraft for the largers par mouth through the spouses's position with a partnership that participates in a time-share agreement, the candidate must not make use of the aircraft until it domine outlification from the spouse, the partnership, or time-share provider that the mudicate's plantest five-incentification is a five-incentification of the candidate in the spouse has already used the siscent for six hours that mouth, the candidate's planted use would cause the spouse to exceed the ten-hour limit and the emitrafive-hour flight would fall under 11 CFR 100.93(c), not 11 CFR 160.98(g). Sec 11 CFR 100.93(c), not 11 CFR 160.98(g).

Some our ministration and state of the forent state of the first state of the state the normal amount of permitted use under the agreement. For example, an ownership agreement might provide that one annual community share entitles that owner to use an aircraft for twenty heme you mouth without additional citings, and up term suditional can hundred some p month at my uddifficural tile-case of \$1,086 per hour, in cards easies, the immely factifie additional hypothesis house would be included within the "propositional likers" of that ownership interest. A candidate with such an assership interest could therefore use the aircraft for up to oue kundred and twelty knows in a mostly and recombined the entity operating the simulation the rate in 11 (did 1000186)(1)(i). The cardidate would be required to my the operator for one-twellin of the ownership share (the cost of one month of the canual cornership share) to cover the first twenty hours, plus \$1,000 for each of the additional hundred hours

5. Specific Time Period for Buyayment

The NRMM inquired whether the Commission should magire the candidate's committee to make the payment required by 11 CFR 1018.23(g) within a specific time period, such as no later than even days from the first day of travel, which would be consistent with payment for travel on other sircraft under 11 CFR 200.22(g), The Commission did not merior any

comments on this issue. The Commission is not specifying a time period for repsyment in the rule itself in expectation that, in shared-ownership or lease arrangements, the candidate will make the repsyment in accordance with the normal business grantices of the entity administrating the shared-wenership or home squaments. If not, that exists will be discuss to have smale a loan to the scadidate's commisse that would, if not repsid within the required commercially reasonable period, become an in-kind contribution is the sandidate's authorized committee, subject to the limits, prohibitions, and reporting requirements of the lett.

J. 11 CFR 100.93(i)—Reporting Requirements

The Commission is relocating the reporting requirements of 11 CFR 180.92 from paragraph (a) to paragraph (i), as proposed in the NFRM, but is not making any substantive revisions to those requirements. The Commission did not receive any comments on the negating requirements.

K. 11 CFR 100.93(j)—Recordkeeping haquirements

Consistent with the changes to fine reimbursement rates required for candidates, authorized committees of candidates, and leadership PACs of linears candidates, the Commission is uposting the recursive ping requirements for star sommunical travel at 11 CFR 19888[7], visich are buing relocated to zees 11 CFR 19888[7].

relocated to must 11 CER 190.000).

First, the revisual recontinuously
requirements maintain the basis
elements of the Commission's 2003
travel rules. Depending on the eligible
reimbursement rate, see new 11 CFR
100.85(c), (e), and (g), political
transities are required to maintain the
againstite records for non-commercial
transit under this section 16 haf founds
are necessary desired; on whather e
compaign translet rang pay first-class or
a coach rate for a flight, or is acquired
to reimburse at the charter rate or sue
of the rates applicable for use of

government conveyance.
Second, the Commission is requiring candidate committees to obtain and least copies of any shared-own-rights at least greensuments, as with as the preflicht certifications in summittees with those agreements, that the candidate's accountite must obtain to comply with the requirements of in CER 100.03(g)(1)(f) and (g)(3). These records are necessary in determine whether a candidate's use of the aircraft would cause the persus with the ownership interest in the aircraft (the candidate or the candidateissionsediate faulty

member) to exceed the amount of use of the ainstalk included in that summerkip interest.

The Commission also sought comment on the appropriate duration of this record received requirement, but did not remit we any constantly. Thus, the general we could not mission posted of these years applies in these demonstrate. See 61 CHR wh4.146b)(3). All other applies according requirements remain in a effect with respect to these documents. See, e.g., 11 CFR 104.14b).

IV. Remittations on time of Computing Funds for Flights on Managementals Aircraft (2 U.S.C. 4394(c))—11 CFR 118.5

In addition to emending the travel reimburgement regulations at 11 CFR 100.93, the Commission is adding new 11 CFR 118.5 to implement the limit on expenditures for non-commercial air travel established by HIXIGA. The Commission is promulgiting new 11 CFR 113.5 to provide gardance ersing the making of exwhich is parellel to the guidance provides in 11 CFR 10000 regarding contributions. The final mile is identical to proposed 11 CFR 1125. In the NPC the Commission requested comments as to whether a new rule (11 CFR 113.5) is necessary to implement ness 2 U.S.C. 43%(c) in light of the proposed revisions to 11 GFR 100.93, but did not receive any community sidiessing the

A. New 11 CFR 113.5(a)—Presidential, Vice-Presidential and Senate Constitution

New 11 CFR 113.5(a)(1) implements the general prohibition in new 2 U.S.C. 430c(c) on the expenditure of funds by candidates for President, Vice-President or the Senete and their authorized committees for eircraft flights, with the two complians provided in HLAGA (in actificien in the speedy presistent for treval on power-ment-extented altered and contribute-support electric). The first exception is fir air tuesd on "commencial" flights. See 11 CFR 112.5(a)(1). The second exception is for air mayal on "non-commercial" flights if eitless the candidate, the authorized committee, or another political committee, remineree the provider of the statement for the readificates pate rate character considers compaign tempeler of the normal and usual charter fere or rental charge for travel on a comp simulation of compensation within seven days of when the flight began. See 11 CPR 112.5(s)(1) item 11 CPR 112.5(s)(1) and (2) provide cross references to litions of the terms "comm travel" and "mun-communist turnel" in

11 CFR 100.93(a)(3)(iv) and (v). The "candidate's pra rate shere yes condidate commain traveler of the normal and manni charter face" is calculated in the same thanner as in 11 CFR 100.95(c)(1). A candidate's committee will not be capsidized to have made an orperations when members of the marite and government provides angular diseases for their portion of the wavel as permitted under 11 CFR 100.93[b](3). Travel an aircraft provided by a Federal, State or local government entity is addressed in new 11 CFR 113.5(a)(3), consistent with new 11 CFR 750.93(e)(1) (government conveyunces). Trevel on sendidous owned structly addressed between

The Currentesion received ne communic specialistic additionally additionally new 11 CFR 118.5(a).

B. New 11 till? 113m(b)—Hipung Candidates

As noted above, HLOGA prohibits House sandidates and their authorized committees and leadership PACs from spending campaign funds on private, non-commercial sir imagin 2 U.S.C. 439a(c)(2). Instand, House contilettic ment spend compaign funds on sir towns only for commercial air trans, or for travel on aircraft owned by the adidate or the candidate's immediate family member, or for flights operated by the Piderd government co a State or local government. Because Hittae candidates, finis aniloginal sommittees, and their inedentity FakGs are probiblied from spending campaign funds on non-commercial travel, other than travel permitted under 11 CFR 100.93(e) (government conveyances) or 11 CFR 100.93(p) (alterest owned or leased by a candidate or a candidate b immediate figuily stember), the new sule at Pt CPR 119.6(5) electroments Mutes emittiones them manyling thkind considerations in the firm of your commercial of travel. In the MERM, the Cummission arguested enumerat and received one managed, which engressed support. Accordingly, the Commission is implementing this proposal in new 11 CFR 113.5(b)(1) and (2). Paragraph (b)(1) contains the same "commercial exception" as in our finds in at CFR 113.5(a, 1), discussed above. Travel on government provided about is reflected in paregraph (b)(2). Trust en candidate owned aircraft is addressed

C. New 11 CFR 113.5(c)—Exception for Aircroft Owned of Leased by Candidates and Immediate Family Mankers of Candidates

As noted shows, the restrictions on expenditures in HLOGA do not apply to travel aboard simpleft that are eventflow leased by a smallinest or the candidate's immediate family measures, immeding sixtract owned at leased by any analty in which the candidate as a mambas of the candidate's immediate family "has an ownership inherest," provided that the entity is not a "public corporation," and the use of the sixtraft is not "more than the mandidate's or immediate family number's propertiones share of oversambip alleres." 2 U.S.C. \$499c(clis)(A).

New 11 CFR 113.5(c)(1) implements this statutory provision and ensuresferences the definition of "proportional share of ownership" in 11 CFR 100.93(g)(3). New 11 CFR 113.5(c)(2) states that candidates and immediate family members will be considered to seen as lease afterest under the consistence described in 11 CFR 100.93(g)(2), numely, when them is an ownership interest in an entity (other than a public corporation) that owns the sircust. New 11 CFR 113.5(c)(3) cross-references the definition of "immediate family member" in 11 CFR 100.93(g)(3). The Commission received no comments specifically addressing 11 CFR 113.5(c) as proposed in the NFRM.

D. New 11 CFR 113.5(d)—in-kind

New 11 CER 113.5(d) states that the transmiturant value of transportation provided to any compaign traveler (as defined in 11 CFR 160.98(a)(3)(i)), is min-kind contribution from the service provider to the candidate or political committee on whose belief, so with whom, the sumpaign traviler transitot, and that such technilaritons are subject to the limits, prohibitions, and regarding requirements of the Asia in animal charge, House candidates are generally prohibited from analying such contributions. The Commission received no comments specifically addressing 11 CFR 113.5(d) as proposed in the NFRM and is adopting the rule proposed in the NFRM.

E. Change of Title for 11 CFR Part 113

Along with adding new 11 CPR 113.5, which implements new 2 U.S.C.
4354(d), the Commission is changing the Cale of Part 113. The former title, "Use of Campaign Accounts for Non-Campaign Purposes," does not encompass new section 113.5, which governs use of campaign funds for

campaign travel. The new title for Part 113 is "Permitted and Prob'hited Uses of Cranpaign Accounts." The Commission received no comments addressing this change and is adopting the rule proposed in the NPRM.

V. Rublicly-Financed Presidential and Vice-Presidential Candidates—11 CFR 9054.7 and 6034.7

Allegough HILUGA does not exceed either the Manifel Election
Campaign Fund Act (Fund Act) (26
U.S.C. 9001 et seq.) or the Presidential
Primary Matching Bayment Actount Act
(Matching Payment Act) (26 U.S.C. 9031
et seq.), the Commission proposed in
the National to make contain manufalment
to its manufacture implementing these
to its manufacture them in the changes it
presented to 11 CFR 120.23. The
Commission received no comments
reparding these proposels and is
implementing them without change
from the NPRM.

Sections 9004.7 and 5934.7 are substantively identically evorted regulations promalgated under the authority of the Fund Act and the Matching Represent Aut, magnetically, and summent functions prescribe the percedupes that jubility funded primary and general election presidential compaigns must follow in attributing their travel expenses to compaign-related and to non-companion-missed ectivities. The Commissions in molecular the following transfer and technical transfer molecular to these regulations.

A. Asteroff

Revised 11 CFE.0004.7(b)[5)(i), (iii), and (v), and 11 CFR 9004.7(b)[8) replace the word "airplane" with the word "aircraft." These changes conform the regulations to the terminology in HLOGA, as well as revised 11 CFR 100.93 and new 11 CFR 115.5.

B. Recordingring Requirements

Former 11 CFR 9004.7(b)(5)(v) and 11 CFR 9034.7(b)(5)(v) required the authorized committees of presidential and vice-presidential candidates to matteria decementation of the lowest unrestricted non-discounted airfare as required in former 11 CFR 100.93(f)(1) or (2). Bettern sections 160.82(i)(1) and (2) contained appointing to state of relativament relating to state of relativament granufaced in former 11 CFR 100.93(d) and (e). Revised 11 CFR 100.93. however, replaces the old reimbursement rate for non-commercial air travel by presidential and vice-presidential candidates with a rate based on the "pro rate share per compating traveler" of the normal and

usual charter fare or rental charge for teavel on a summarable size; aft of comparable size, and saiz out the corresponding recordisations; requirements in 11 CFR 100.63(j)(1). The Commission is therefore revising 11 CFR 9034.7(b)(6)(v) to socioem them to the new recordisating requirements in amendal 11 CFR 109.93(j)(1). The Commission is also sense hing the final sentence in senions 9084.7(b)(fix) and 9034.7(b)(5)(v), which address recordisating requirements for travel on other conveyances to reflect that the recordisating requirements for owner conveyances are new addinguoud fix 11 CFR 108926)(3).

C. 11 CFR 9004.7(b)(8) and 11 CFR 9034.7(b)(8)--Conforming Changes in Terminology

The Comminish is revising 11 CFR 9004.7(b)(b) and 9234.7(b)(b) to conform the terminalogy to that used in new 2 U.S.C. 439a(c) and in revised 11 CFR 100.93. Former 997804.7(b)(b) and 9034.7(998) used the rame terminology as former station 100.83 in decariting sircraft this are "liamages for compensation or him" under various FAA certification authorities. Revised 11 CFR 100.93 defines the term "neacommercial travel," and uses the term "aircraft" instead of "airphage." Accordingly, revised 11 CFR 9024.7(b)(b) state that instel as 12 CFR 9024.7(b)(c) state that instel as non-management aircraft in generated by 11 CFR 100.68 and that the term "neo-management bl travel" is defined in accommensation with 11 CFR 100.68(c)(a)(a)(c)

Certification of No Milest Puresunt to 5 U.S.C. 605(b)

[Regulatory Flexibility Act]

The Commission cartifies that the attached rules will not have a significant monomis impost at amubatantial number of smail entities. The basis for this cartification is that few. if any, small entities are affected by these final rules, which impose obligations only an Federal candidates, their campaign committees, other individuals traveling in consection with Factural elections, and the political committees on when basalf this travel is satelacted. Federal candidates, their compaign committees, and much political committees on which political committees engitled to rely on these makes are not amuit entities. These rules generally classify or supplement existing rules and are harpely intended to implement a statutory directive and amplify the process of determining reimbursement rules. The rules do not impose

compliance costs on any service providers (as defined in the rules) that are small entities so as to cense a significant economic impact. With respect to the determination of the amount of reimbursement for travel, the www.rules maracy reflect an extension of chinting similar rules. To the cultil that operators of Ex-text secures or tex mend air abarter seprime am cenali entities indirectly impacted by these rules, any emmanaic effects would result from the traval choices of individual candidates or other travelers rather than Commission requirements and, in any event, are likely to be less than 2000,000,000 per year.

List of Subjects

11 CFR Part 1400 Elections.

11 CFR Port 113

Campaign funds, Political candidates.

11 CFR Part 8004

Campaign funds.

11 CFR Part 8034

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Campaign funds; Reporting and amordkeeping requirements.

For the reasons set out in the presente, the Federal Election Commission is amending submapters A, E, and F of chapter I of title 11 of the Code of Federal Regulations as follows:

PART 100—SCOPE AND REFINITIONS (2 U.S.C. 431)

■ 1. The authority direction for past \$80 is revised to mati as follows:

Authority: 2 U.S.C. 431, 434, 438(a)(8), and 439a(c).

E 2. Section 190.98 is revised to read as follows:

PICE.98 Travel by aircraft or other magnes of transportation.

(a) Scope and definitions.
(1) This section applies to all campaign travelers will use non-

commercial tissul,

(2) Campaign travelers who use commercial travel, such as a commercial sirline flight, charter flight, tack, or an automobile presided by a sential warn-bary, are governed by 11 CFR 188.53(a) and (d), not this senties.

(3) For the purposes of this section:
(i) Gampaign traveler means
(A) Any candidate traveling in
connection with an election for Federal
office or any individual traveling in
connection with an election for Federal
office on beindf of a manifestion or
political committees or

(B) Any member of the news media

traveling with a condiders.
(ii) Service provider means the owner of en aircraft or other conveyance, or a person who lesses an allerest or other conveyance from the owner or otherwise obtains a legal right to the use of an aircraft or offer sonveyesse, and with a first the second carrier of conveyance to provide tennesceletion to a quegaign templer. For a jointly sweed a compaign transler. For a jointly own or leased elected or other conseguence. the service provider is the person who makes the elecrafi or other conveyance

available to the campaign travaler.
(iff) Unrollidered villae means the difference between the velter of the transpectation session provided, as est forth in this session, and the amount of payment for that transportation service by the political committee or suppose. traveler to the service provides within the time limits set forth in this section. (iv) Commercial travel means travel

(A) An aircraft operated by un air canter precommercial operator cartificated by the Feligias Avistica ministration, provided that the flight required to be conducted smiler Pederal Aviation Administration air carrier safety rules, or, in the nese of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority, provided that the light is required to be canducted under air carrier sality rules; er

(8) Other errors: of transpositifies provided for consuscensial passenger mpetitie

(v) Nan-magnenezaiai travni mesu travel aboard any conveyance that is not communcial travel, as defined in

paragraph (a)(3)(iv) of this section.

(vi) Comparable at any means an aircraft of similar make and model as the durant that entering makes the time,

with shaller enguittes as that almost.
(b) General rule.
(1) No contribution is made by a sevice provider to a candidate or

political committee if:

(1) Every candidate's authorized committee or other political committee on bahali or which the travel is conducted pays tile service provider, within the required time, for the full e of the transportation, as determined in accordance with pezagarpine (c), 🕰, (d) az 🖨 mi this sention, granded to ell emperige traveless who are manifes on bossis of

that candidate or political committee; or (ii) havey camped in fraveler for whom payment is not made under paragraph (b)[1](i) of this section pays the sirvice presider for the full value of the transportation provided in that

campaign traveler as determined in accordance with pangraphs (c), (z), (c) or (g) of this acction. See 11 CFR 102.78 and 100.139 for tweetment of certain unreimbursed transparration expenses incurred by individuals traveling on behalf of curdidates, acting and committees, and political committees of

political parties.
(2) Except an precided in 11 GFR 100.79, too unmindepend value of transportation provided to any campaign traveler, as determined in accordance with paragraphs (c), (d) or (e) of this section, is an in-kind contribution from the service provider to the condicate or political consmittee on whose lightly, or with whom, the campaige transite in which. Contributions see subject to far reporting requirements, limitations end prohibitions of the Act. (3) When a candidate is accompanied

by a member of the news media, or by security presonnel provided by any Federal or State government, the news media or government sacurity provider may relabeled the political columnists paying for the premier slows of the travel by the member of the media ar security parsennel, or may pay the service provider directly for that provide share, up to the applicable amount set forth in persgraphs (c)(1), (c)(3), (d), (e), or (g) of this section. A payment made directly to the service provider may be saftreeted from the amount for which the political committee is etherwise respuntible without the contribution resulting. No constitution results from celiminarsement by the media es a guerrament sessity provider to a political committee in accordance with this paragraph. (c) Trivel on attempt. When a

campaign travels: us compage travers of at their commental travel, offer their comments almost described in s aircraft for nongraph is) of this seather one candidate or simily owned sire-fit described in person ph (g) of this section, raimbursament seast be provided no later then seven [7] calender days after the date the flight busen at one of the following rates to evoid the receipt of an in-kind

contribution:

(1) Thereis by so on Sthalf of Sunste, presidential, or vite-presidential condidates. A finate, presidential, or vice-presidential, or vice-presidential, or vice-presidential, or vice-presidential sous black towards. his own behalf, or any person transiting on behalf of such can delister the candidate's authorized committee must pay the pao rate share per compaign traveler of the normal and turnal charter fare or mintal dange for travel on a comparation attentit of comparable sine. The present share shall be only also day

dividing the normal and usual charter face or rental alongs by the number of campaign travelers on the hight that are traveling on behalf of such candidates or their authorized committees, including members of the news media, and is extributed in say campaign testeding that are not preveiling an bould of such candidates or their authorized committees, or any other passangers, except as permitted under paragraph (b)(3) of this section.

(2) Travel by or on behalf of Hause candidates and their hunderslip PACs. Except as otherwise pressined in paragraphs (e) and (g) of this small manager towards raise is a made n is o madificie for election for the effice of Ponsesentative

in, or Delegate er Rezident

Commissioner to, the Congress, or a person traveling on behalf of any such candidate or any authorized committee or leadership PAC of saith candidate, is prohibited from non-communical travel on behalf of any such condition or any authorized consisting or leadership PAC of such condition

(a) Other competen travelers. When a candidate's authorized committee pays for a flight pursuant to paragraph (c)(1) of this section, no payment is required from other campaign travelers on that from other campaign unverses on that flight. Otherwise, a campaign triveler not covered by paragraphs (c)(1) or (c)(5) of this section, including parameters/sting on behilf of a publical purty a manittee, some sepagains fand, assertion, or a lamboration political consenting or a lamboration. leadanthip PAC other time a leadership PAC of a candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, must pay the service provider us less than the fellowing for each lig of the trip:
(i) In the case of travel becamen cities

served by regularly minduled fine class commercial sirling service, the lowest unsestricted and non-discounted first-

class sirfare:

(ii) In the case of travel between a city served by regularly stheduled coach commercial siring service, but not regularly scheduled first-ska commercial sigline survice, and a city served by requirely solutioned essent commercial sisters service (with or filmut first-class communical atribus service), the launti unmetricited and non-discounted south sixters or

(iii) In the case of traval to or from a city not served by regularly scheduled commercial strike service, the non-yel and usual climits flow or matril che for a companion communital since in minimum simute excommodate all

campaign travelers, and security personnel, if applicable.

(d) Other means of transportation. If a sampaign traveler uses any means of transportation other than an aircraft, including an automobile, or traffi, or buit the cumpaign trevaler, or th political mamilitie on whose being the positions maintifies on tenors permit as travel is quasimeted, must pay the service previous rathin that ty (20) calendar sleet after the date of special of the involve for such travel, but not later than sixty (60) calendar days after the date the travel began, at the normal and usual fare or rathal charge for a comparable commercial conveyance of sufficient size to accommodate all Campuign tervisies, inclinding members of the meson makin terraling with a condidate and security personnel, if appliechle.

(e) Government conveyances. (1) Travel by or on behalf of candidates, their authorized mminese, or House candidate Leadership PACs. If a compaten toweler traveling on behalf of a candidate, an autimiend som mittes, or the leadership PAC of a House candidate more so row or a Mount dendities then on simula that is provided by the Mallaral gommenment, or by infitate or lead government, the centure on traveler, or the political committee on whose behalf the travel is conducted, must pay the government entity, within the time specified by that government entity,

(i) The pursuit shirt per compulge under of the passell and usual charter fam or rental nharps for the flight on a companion aircraft of sufficient size to accommodate all campaign travelers. The pro rata share shall be calculated by dividing the normal and usual charter fare or rental charge by the number of campaign travelers on the fight that are traveling on behalf of candidates. authofized sommittees, or Iller candidate lowistship PAGs, intrading one of the more mode, and security pursonnel, " m-chicilia. No pention of the rormal and much chart are or motel chang sitey be attributed to any other mapping travelers or my other pessengers, except as permitted under paragraph (b)(3) of this section. For purposes of this peragraph, the conjumble sizualt need not personal sui munipusat; er

(ii) The private travale: reimbursement rate, as specified by the

governmental entity providing the aircraft, per campaign reveler. (2) Other sumpaign transities When a candidath's againsticed commisses, or a House case Miss's Statembip PAC pays for a faight passesses to paragraph (e)(1) of this section, we pay then to required

from any other campaign travelers on that flight Otherwise, a campaign traveler not covered by personah (e)[1] of this section, including personal traveling on behalf of a political purity committee, separate manageted fund, noncommend milital committee, or a leadership PAC other than a leadership PAC of a candidate the time cities of Mearcountisine in, at Délegain a Resident Commincienne (n, the Congress, must pay the government stity, within the time specified by that government entity, either:

(i) For travel to cr.from a military airbase or other location not accessible to the gamest public, the lowest unrestricted and non-discounted fligtsiles sides to or how the tity with regularly missiuled liest-tions accommendal mission corving that is geographically closest to the military airbase or other location actually used;

(ii) For all other travel, in accordance

with paragraph (c)(3) of this section.
(3) If a company traveler wayses
conveyance, other than an aircraft, that is provided by the Ferimal gurerment, er by a fittie or lacel gerscament, the campaign farming, eachn political mmittee on where behalf the travel in conducted, must pay the government eatity in accordance with pengraph (d) or this section.

(1) Date and public availability of payment rate. For purposes of paragraphs (a), (d), (6), and (g) of tale ction, il ction, the payment remember he the te available to the general public for the dates traveled = within serger (7) calender days thereof. The payment rate must be determined by the item the payment is due under payment (c), (d), (a) or (g) of this section

(g) Alteruit owned or leased by a candidate or a callificate's immediate

family maken

(1) For non-assummental survei by a sendidgin, and primers investing on behalf of a candidate, on on strengt a mad or learned by that condidate or su immediate finally member of that candidate, the candidate's authorized

committee rust pay:
(1) In the case of travel on an strongit that is owned or leased matter a shandownership at other times ownership at denor unastrates since soft according to the complete or inspections family member's proportional store of the complete or inspections. the ownership interest in the sircraft the hourly, mileage, or other applicable rate charged the candidate, imme provider for the custs of the travel; or

(ii) In the case of travel on an like that is swamed or leased unster a situatiownership or chair threaling

arrangement, where the travel exceeds the candidate's or immediate family member's proportional share of the commerchip interect is the sircraft, the rate specified in paragraph (c) of this section (House candidates are shibited from ungular in such tuwel); or

(16) he the dant of tweel on an since it that is not council or leased under a skered-ownership or utter time-shan errangement, the pro retechan per campaign traveler of the costs associated with the trip. Associated costs include, but are not limited to, the cost of fuel and trew, and a proportionate share of

maintenance tosts.

(2) A candidath, or an immediate
family mamins of the candidate, will be considered to cam or lease an aircraft under paregraph (g)(1) of the section if the candidate or the immediate family member of the candidate has an ownership interest in an entity that owns the aircraft, provided that the satity is not a corporation with publicly tracted shares.

(3) A propositional stance of sig-matchip hain out in on electeft s the amount of use by which the candidate or instinction family member te entitled under an ownership or lease agreement. Prior to each flight, the adidate's committee must obtain a certification from the service provider that the candidate's planned use of the eficialt will not exceed the contrible's or Mamediata family member's propositional shame of use under the ownership or ioner agreement. See persgraph (j) of this section for related

recordkeeping requirements.

(4) For the purposes of this section, an "immediate family member" of a candidate is the lither, mother, son, daughter, briller, sister, hulband, trile, father-in-law, or mathematical

andilate.

(h) Preemption. In all regrees, State al hand lawers presentation with spect to transl in measuration with a Factoral electrica to the extent they purport to supplant the rates or timing requirements of 11 CFR 100.93.

(i) Reporting. (1) In accordance with 11 CFR 103.15, a political cumulinto on where latest the unreimbered track is sunducin must apport the resolut of an in-kie contribution and the making of an expanditure under paragraph (b)(2) of this section.

(2) When reporting a dibbursement for tinvel services in accordance with this section, a political committee on whose behalf the travel is conducted mast report the autual dillns of travel lier which the districtment is made in Tip "purpose of disbursument" field.

(j) Recordkeeping.

(1) For transi on nan-commercial sizersit comjucted under peregraphs (c)(1), (c)(3)(iii), (e)(1), or (a) of this section, the political committee on whose banalf the travel is conducted shall maketain degeneration of

(2) The sirvice provider and the size, model, make and tail number (or other unique identifies for subtract of mark) of

ismust med;

(ii) An itimomy showing the departure and emission cities and the date(s) of departure and arrival. a list of all passengers on such trip, along with a designation of which passengers are and which are not complyin bevoice or county yes much; and (iti) (a) The mic for the companies chaster elected available in gassalance

with paragraphs (c), (e) and (f) of this section, isulusing the sirline, chaster or sir text operator, and trassl service, if any, offering that fare to the public, and the dates on which the rates are based;

(#) The private traveler refinbanement rate available in scausitants with paragraph (e)(1)(R) of this section, and the dates on which the rate is beautil

(in) Where the travel is absorb en aircraft ewned in part by the candidate or an immediate family member of the candidate, the ownership or lease agreement specifying the amount of use of the aircreft curresponding to the candidate's or an inhediate family mountur's overwhap intensi is th sizeraft, an required by passemaph
(gk1)(i) and (ii) sam (g)(3) of this sention, and the certification required by

peragraph (g)(3) of this section.
(2) For travel on non-commercial eixcreft conducted under persymph (c)(3)(i), (c)(3)(ii), or (s)(2)(i) of this section, the political obmenities on whose behalf the firstel is conducted shall mainmen ducumentillon of:

(1) The service provider and the size, maily, make a mil mil transites (or other unique identifier for military sircraft) of

the excest used:

(ii) An itinarary showing the departure and arrival cities and the date(s) of departure and arrivel, a list of all presenters on such trap, slung with a duliquation of which passengers are anti whitih are not empeign travelue;

(iii) The levent unnestricted nondisamental singue emileblesis
accordance with peragraphs (a)(3),
(e)(3)(1), and (1) of this section, including
the sirline offering that few, flight number, travel service, if say, providing that fire, and the dates on which the retes are based.

(3) For travel by other conveyances, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(1) The service provider and the size, model and make of the conveyence

used:

(ii) An Minerary sittiwing the departus and destination locations and the date(s) of department and swintly o list of all meanmann un such taib, along with a designation of which pa are and which are not compa travelers or security personnel; and (iii) The commercial fare or rental

charge available in accordance will pamgraphs (d) and (l) of this section for a comparable commutatel conveyence of sufficient time to excemmed al of the rows weign promises says a combails transpas payages southers candidate, and recurity personnel, if applicable.

PART 113—PERMITTED AND PROHIBINED USES OF CAMPAKAN ACCOMME

5. The Reading of Part 113 is reticial. to read as set forth above.

m 4. The authority citation for part 113 continues to read as follows:

Authority: B U.S.C. 496(b), 438(E)(8), 459e,

u 5. Section 113.5 is added to read as follows

§ 112.5 Internations on use of company funds for flights on noncommercial aircraft (# U.S.C. 438a(c)).

(a) Presidential, vice-presidential and Senate candidates. Notwithstanding any other provision of the Act or Commission regulations, a presidential, vice-presidential, or Senate candidate, and any authorized committee of such candidate, shall not make any expenditure for travel on an aircraft unless the flight is:
(1) Communicial travel as provided in

11 CFR 108.00(a)(R)(iv):
(2) Nonenimercial travel as provided in 11 CFR 109.03(a)(3)(v), and the provided on 11 CFR 109.03(a)(a)(a)(b) and the provided of the rata share pur campaign traveler of the normal and usual charter fare or rental charge for Marel on a comparable aircraft of comparable site, as provided in 12 CFR 500.90(c), is paid by the undidate, the betherised committee, or other political committee on where behalf the towns is continued, to the owner, hears, or either penten was provides the strengt mithimsens calendar days size the date the flight began, except as provided in 11 CFR 100.93(b)(3); or (3) Provided by the Federal

government or by a State or local

(b) House candidates and their leadership PACs. Notwithstarting any otion provision of tim Act or Commission regulations, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and any suthelled committee or leeds whip PAC of such candidate, shall not make sur expenditures, or receive any health? contribution; for manyl on un aingraft wales the flight is:

[1] Commercial travel as provided in

1.1 CFK 100.93(a)(3)(iv); or.

(2) Provided by the Federal government or by a State or local government.

(c) Exception for county owned or leased by cambinate, and immediate family members of namidates.

(1) Paragraphs (a) and (b) of this section do not copyly to lights an samult owned or leased by the candidate, or by an immediate family member of the candidate, provided that the candidate does not use the aircraft more than this candidate's or immediate family member's propertional affare of ownership, as defined by 11 GPR 100.93(g)(3), all mem.

(2) A candidate, or an increasibility

family member of the cardidate, will be considered to own or lease an abconft under the conditions described in 11

CIM 100.93(g)(2).

(3) An "immediate limitly member" is defined in 11 CFR 200.0019(4).

(d) in-king containations Emericas provided in 18 CFR 180.7% the unreimbursed wakup of transportation provided to any carapaign transfer is an in-kind consultation from the saudes provider to the candidate cr political committee on whose behalf, or with whom, the campaign traveler traveled. Saich contributions are subject to the repealing requirements, limitations and prohibitions of the Act.

PART 9004—ENTITIEMENT OF ELIGIBLE CANDIDATES TO PAINENTS; USE OF PAYMENTS

m 6. The authority districts for just 9004 continues to and as follows:

Andherity: 26 U.S.C. 9094 and 9009(h).

20 7. Section 9004.7 is amended by revising paragraphs (b)(5)(i), (b)(5)(iii), (b)(5)(v), and (b)(8) to read as follows:

§ 9004.7 Allocation d' Trivel expenditures. . . •

(b) · · ·

(5) (i) If any individual, including a candidate, uses a government sixcraft for campaign-vibried trium; the candidate's authorized committee final my the appropriate government entity an

amount equal to the applicable rate set forth in 11 GFR 102:08(a).

- (iii) If any individual, including a candidate, uses a government conveyance, other than an aircraft, for campaign-related travel, the candidate's authorized committee shall pay the appropriate government whity an amount equal to the amount supplies under 11 CFR 100.93(d).
- (v) For travel by strengt, the committee shall maintain documentation as required by 11 CFR 100.93(j)(1) in addition to any other documentation required in this section. For travel by other conventions, the committee shall material documentation of the categorical material as addition to any other documentation required in this section.
- (8) Non-commercial travel, as defined in 11 CFR 100.93(a)(3)(v), on sircraft, and travel on other means of transportation not operated for commercial pursuages survice, is governed by 11 CFR 160.86.

PART SUM-ENTITLEMENTS

■ 8. The sutherity citation for part 9034 coefficients in send as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

§ 9034.7 Alteration of travel expanditures.

(b) • • •

- (8) (i) I way individual, including a candidate, uses a government whereit for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the applicable rate set forth in 11 GPR 160.hd(c)
- (iii) If any individual, including a candidate, uses a government conveyance, other than an aircraft, for computer-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount equal to the amount required under 11 CPE 106.00(1).
- (v) for tranel by sizeraft, the correspites shall maintain documentation as required by 11 CFR 100.01()(1) in addition to any other documentation required in this section. For travel by other conveyances, the comments shall maintain documentation of the commercial rental

rate as required by 11 CFR 100.93(j)(3) in addition to any sites documentation required in this section.

(8) Non-commercial travel on aircraft, and travel on other means of transportation not operated for commercial pussenger service is governed by 12 CER 108.93.

Dated: November 20, 2005.
On beliaff of the Commission.
Staven T. Walking,
Chairman, Facker Matther Charmington.
[FR Doc. RB-24637 Filed 12-4-09; 8:45 am]
MARKS COOK 6715-61-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

Procest No. #11101; Sprinkl.Conditions tite. 12-241-60]

Special Conditions: Embraer S.A., Model EMB: 505; High Fael Temperature

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SURMANY: These special conditions are issued for the Embraer S.A., Model EMB-505 amplane. This artifies will leve a movel or unusual design feature(s) associated with high fuel temperature. The applicable net contain adequate or appropriate anisty standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to established by the estating sirvoulishess standards. DATES: The effective data of these special consistence is December 1, 2009. We must remain your community 5, 2019.

ADDRESSES You make high two contents of your examinants in: Feebral Aviolism Administration, Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. CE301, Room 506, 901
Locust, Kramas City, Misseuri 64705.
Mark comments: Docket No. CE301. You may inspect comments in the Rules
Docket weekslays, empt Feebral
holidays, between 7:50 s.m. and 4 p.m.
FOR PUNTHER BY FRIENCES AVIATION.
FOR PUNTHER BY FRIENCES AVIATION.
Service, Small Airplane Directories,
ACE-111, 901 Locust, Kanses City,

Missouri, 816-329-4135, fax 816-329-4030.

has determined that notice and opportunity for prior public enument hareon are imprecisable because these procedures wisild algorithmstly delay issuance of the appreval titalia and thus delivery of the effected alsout. In addition, the animicuse of these special conditions leashess subject to the public comment process in session prior instances with ne substantive comments received. The FAA flarefore finds that good cause exists for making these special conditions effective upon insuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written data, views, or ergussess as they may desire The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include segmenting dita. We tak that you send us two copies of written comments.

We will file in the doclet all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in parson, go to the address in the Advantables section of this pressuite between 7:30 a.m. and 4 p.m., Monday through Estate, sought Federal holislays.

We will consider all comments we

We will consider all comments we seestly on or hefore the closing date for comments. We will consider comments filed late if it is possible to do so without incuming expense or delay. We may change these special consistions based on the comments we receive.

If you want this Fact to extrawhedge

If you want the Fast to extrawledge seedpt of the quantities on this proposal, include with your commetts a pre-eddressed, stamped postered on which the docket number appears. We will stamp the date on the postcard and mad it back to you.

Discussion

Background

On October B, 2005, Embraur S.A. applied for a type callificate for their new Model EMB-860. The Model EMB-660 the Model